

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

March 25, 1976  
10:00 A.M.

Council Chambers  
301 West Second Street

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The meeting was called to order with Mayor Friedman presiding, noting that Councilmember Himmelblau would not be present until later in the meeting due to illness in the family.

Roll Call:

Present: Councilmembers Hofmann, Lebermann, Linn, Trevino,  
Mayor Friedman, Mayor Pro Tem Snell

Absent: Councilmember Himmelblau

The Invocation was delivered by REVEREND CARL KOELLNER, Worldwide Church of God.

APPROVAL OF MINUTES

Councilmember Lebermann moved that the Council approve the Minutes for March 18, 1976. The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Hofmann, Lebermann, Trevino

Noes: None

Abstain: Councilmember Linn

Absent: Councilmember Himmelblau

INTRODUCTION

At this time, Mayor Friedman recognized the students from the 6th grade at Travis Heights School that were present at the Council meeting doing a government study. Mayor Friedman asked the students to stand and be recognized.

AUSTIN DISTRICT SPECIAL OLYMPICS WEEK

Mayor Friedman read and then presented a proclamation to the Texas Cowboys recognizing March 27, 1976, as "Austin District Special Olympics Week" in Austin and called on all citizens to join the Council in applauding these special contestants to a victory far greater than athletic achievement--a victory of spirit which wins in all events. The event is the project of many Austin organizations which labor for the betterment of mankind and will involve nearly 1,000 mentally retarded students from 20 Austin schools.

Councilmember Lebermann noted that he and the Mayor had worked together with the involved organizations on this event and extended a special thanks to the University of Texas Cowboys. He felt that this was a perfect example of how the students at the University work with the greater community to serve the very special needs. One of the Cowboys thanked the Council for the proclamation and invited all to attend the event to be held at Nelson Field on March 27, 1976.

BALLET WEEK

Mayor Friedman stated that Councilmember Himmelblau, who has been associated with the Austin Civic Ballet for a long time, sent her regards and apologies for not being present to present this proclamation.

Mayor Friedman read and then presented a proclamation to Mr. and Mrs. Eugene Slavin, President of Southwestern Regional Ballet Association and co-artistic Directors of the Austin Civic Ballet, proclaiming the week of March 29 through April 4, 1976, as "Ballet Week" in Austin and encouraged residents to join the Council in supporting the efforts of the Austin Civic Ballet and the Southwestern Regional Ballet Association to add a valuable dimension to the intellectual and esthetic life of the citizens of Austin, the state and the nation. Mr. Slavin thanked the Council and commented that they would strive to make the City of Austin proud of their Civic Ballet.

DR. R. MAURICE HOOD DAY

Mayor Friedman read and then presented a proclamation to Dr. R. Maurice Hood, thoracic and cardiovascular surgeon and chief of surgery at Brackenridge Hospital, proclaiming March 25, 1976, as "Dr. R. Maurice Hood Day" in Austin and called on all residents to recognize the contributions Dr. Hood has made to the community's health care delivery system. Dr. Hood thanked Mayor Friedman and the Council as well as the Austin Board of Realtors for the proclamation. Dr. Hood noted his appreciation for the honor.

Mr. "Gib" Giblin, President of the Austin Board of Realtors, commented that Dr. Hood had been named Austin's Most Worthy Citizen of 1975 by the Austin Board of Realtors, and he was most happy to appear before the Council in honoring Dr. Hood. Mrs. Dorothy Wallace, Chairman of the Selection Committee for the Most Worthy Citizen of 1975, invited everyone to the banquet that will be held tonight in honor of Austin's Most Worthy Citizen of 1975. It will be held at the Villa Capri at 7:00 p.m.

## HYDE PARK DAY

Mayor Friedman read and then presented a proclamation to Reverend Merle Franke, President of the Hyde Park Neighborhood Association, proclaiming April 3, 1976, as "Hyde Park Day" in Austin and urged all residents to join the Council in congratulating the residents of Hyde Park on their recognition of the need to preserve Austin's historic beauty, as well as their leadership role in adapting vestiges of our heritage to suit today's needs. Rev. Franke thanked the Council for their attention to the neighborhoods of Austin and invited everyone to the crafts and treasures fair to be held on Hyde Park Day, April 3, 1976.

## POISON PREVENTION WEEK

Mayor Friedman read and then presented a proclamation to Mark Noble and Doug Dietert, Co-Chairpersons of the Poison Control Week, Capital Area, and Dr. Bill Jobe, President of the Capital Area of Pharmaceutical Associations, designating the week of March 21-27, 1976, as "Poison Prevention Week" in Austin and called on all residents to provide increased safety for our children by storing, using, and handling household substances with care. Dr. Jobe thanked the Council for the opportunity to receive the proclamation and indicated that the pharmacists of Austin and the Capitol area are available everyday to provide information and services to aid in the control of toxic substances. Dr. Jobe urged everyone to contact their pharmacist for any information relating to toxic control.

## APPEARANCE TO MAKE A PRESENTATION TO THE CITY

Mrs. Joydene Ternus, President of the City of Austin Department Head Wives Association, appeared before the Council to present a Bicentennial gift to the City of Austin. Mrs. Ternus began by reviewing the history concerning the gift the Association was presenting today.

After meeting and discussing what would be an appropriate gift for the City of Austin, it was decided that a City flag would be the answer. This choice was decided upon after one of the members of the Association, the late Mrs. Vernadine Jordon, told of her discovery of the original City flag that she found many years past as an employee of the City. The appointment of a Flag Committee by past President Mrs. Lois Miller, consisted of: Mrs. Carolyn Reed; Mrs. Velma Miles; Mrs. Betsy Gandy; Mrs. Dorothy Hancock; Mrs. Ema Lee Harrison; and the late Mrs. Vernadine Jordon.

Mrs. Ternus noted that the Committee also researched history concerning the flag. At this time, Mrs. Ternus recognized the members of the Association by asking them to stand. She noted that each of the ladies had personally stitched on the flag, and gave a special recognition to Mrs. Velma Miles who contributed so much in the creation of the flag.

Mrs. Velma Miles and Mrs. Carolyn Reed displayed the flag at this point and Mrs. Miles explained the symbols on it. Mrs. Miles commented that she hoped that the Council would display the flag in the Council Chamber with all the love that was shared in the creation of it by the members; and that this City would never be 57 years without a flag.

Mrs. Miles stated that some of the direct descendants of those that served on the committee that selected the flag design were present at the meeting today and she recognized them at this time. They included Mr. Lloyd Lochridge; Mr. Charles Page; Mr. A. M. McCallum; Mrs. Russell Fish; some members of the James McClendon family and Mrs. Frank Knight.

#### RECOGNITION

Mayor Friedman read and then presented a resolution signed by the Council to the City of Austin Department Wives' Association noting the Council's gratitude to the Association and the deep appreciation for the pride evidenced in our City and its heritage by the members of this organization. Mrs. Ternus accepted the resolution and hoped it would be the desire of the Council to keep it displayed in the Council Chamber.

#### PRESENTATION OF A FLAGPOLE

Mrs. Max Walton, President of Highland Park Gardeners, appeared before the Council to present a check to purchase a flagpole for the Austin Memorial Cemetery on Hancock Drive. Mrs. Walton felt that by the daily display of the United States flag and the Bicentennial flag in 1976, the citizens of Austin would be reminded of their great heritage and responsibility to uphold the high traditions of the nation. The Highland Park Gardeners of Northwest Austin wanted to present, as a Bicentennial gift, a check in the amount of \$535.00 to be used for the purchase of a 25-foot flagpole to be erected at the entrance of the Austin Memorial Cemetery on Hancock Drive. Mrs. Walton also stated that a marble commemorative marker featuring the Bicentennial Plaque of the City would be installed at the base of the pole by Mr. A. Stasswender of the Austin Monument Company.

Plans of installation of the pole have been discussed with the appropriate City departments and Mrs. Walton commented that the pole would be installed after the gift has been accepted.

Mayor Friedman thanked Mrs. Walton for the check, and Councilmember Lebermann felt that the gift was an extremely thoughtful gift and one to be enjoyed by passersby for many years to come. Mayor Friedman stated that all the citizens of Austin certainly appreciated the efforts of Mrs. Walton and the Highland Park Gardeners for their consideration of this community.

#### PRESENTATION OF A TRANSPORTATION STUDY IN CONNECTION WITH TEXAS SCHOOL FOR THE DEAF

Ms. Kathy Glasco, Arnie Garcia and Richard Craig, students at the Texas State School for the Deaf, appeared before the Council to make a presentation concerning a special transportation study conducted in the vicinity of the campus areas of the state School for the Deaf. Mr. Craig commented that due to some serious traffic mishaps involving deaf students from the school, the school felt that they should examine the total traffic problem around Texas School for the Deaf. In reviewing the situation, Mr. Craig commented that letters were written to every residential school for the deaf located in the United States inquiring about systems used that alerted drivers of the fact

that deaf pedestrians were present. It was learned that no school for the deaf in the United States had a traffic safety program that was felt to be adequate.

After the death of a deaf student in 1975, which occurred in the campus area, the Austin Urban Transportation Department and the Texas School for the Deaf studied the situation by way of studies to develop a program. This program calls for deletions and additions to the total traffic picture around both campuses of the Texas School for the Deaf. Mr. Craig stressed that physical changes were not enough but that the students needed to be educated about the program to help them learn traffic safety. At this time, Mr. Craig introduced Ms. Kathy Glasco to present the first part of the educational program which is to inform the students about the problem and the proposed changes. He noted that helping Ms. Glasco in the presentation would be Mr. Arnie Garcia, both of whom were involved in the project and had performed an excellent job. By use of slides, Ms. Glasco and Mr. Garcia began their presentation.

- I. The basic problem that we face is one of pedestrian traffic around TSD South Campus. The Austin Urban Transportation Department conducted a study around the South Campus. The results showed that there was very little "school oriented" pedestrian traffic as there is around a public school. Most of the pedestrian traffic around TSD is in the evenings, after 5:00 p.m. Also, deaf people look at each other when they are signing. This does not mean that they are careless when they are walking; but it means that drivers in this area should be made aware that there are deaf pedestrians.

In the area around the South Campus, there are not enough sidewalks in some of the areas used by our students. (Point out solid blue lines as existing sidewalks) There are crosswalks on South First Street, but not where we need them. The ones shown here are for the public schools. (Point out red "x's" as existing crosswalks) There are not enough pedestrian signal lights (walk, don't walk lights) (Point out green boxed crosses as existing pedestrian signals)

- II. The following are recommendations made by the Austin Urban Transportation Department.

- (1) New sidewalks should be installed in these areas (show blue dotted line as proposed sidewalk). The proposed sidewalks next to TSD would be paid for by TSD. All others would be paid for by the City.
- (2) A new crosswalk should be installed at West Elizabeth and South First, and the crosswalk at West Monroe and South First should be removed. It is not used presently. (Show red triangle for proposed crosswalk and for crosswalk to be removed)
- (3) Pedestrian signals should be installed at Barton Springs and South Congress, Riverside and South Congress, Nellie and South Congress, and West Monroe and South Congress. (Show green circles pointing out proposed pedestrian signals (walk, don't walk lights))

- (4) Street lighting on both sides of Congress Avenue and on both sides of South First be turned back on. The street lights on one side of each street were turned off January 4, 1974, to save electricity. The City of Austin has already turned these lights back on, on both sides of South Congress Street, from Riverside to Oltorf. (Point out area on slide) The Austin Transportation Department proposes that all street lights on South First from West Elizabeth to Oltorf be turned on again. (Point out area on slide).
- (5) At the Nellie Street entrance to the South Campus, the Austin Transportation Department has proposed the following changes:
  - (a) Installing speed reduction and 90° turn signs (point out 5 mph and 10 mph signs).
  - (b) Installing reflective buttons in the streets (Nellie and Newton) to divide the street into lanes. (Point out on slide).
  - (c) Install "private driveway" sign at the school's entrance. (Point out on slide).
  - (d) Install a stop sign for all traffic leaving TSD at this entrance. (Point out on slide) and
  - (e) Restrict parking near the Nellie and Newton Streets corner. (Point out on slide).
- (6) On the Texas School for the Deaf East Campus, located at 601 Airport Boulevard, there were only two major traffic oriented problems noticed. The campus is located in far East Austin at a place where Airport Boulevard, Loop 111, Ed Bluestein, East 7th and 1st Streets converge. There is a large amount of automobile traffic in this area. The proposal would have sidewalks installed from the entrance to TSD East Campus to Bolm Road. There is no school oriented pedestrian traffic in the area.

The children either live on campus or are brought to school each morning by bus or by their parents. What pedestrian traffic there is in this area is made up of groups of students walking from campus to a convenience store at Bolm Road and Airport. (Point out on slide) Whenever children leave the campus, they are always accompanied by a houseparent or teacher.

The most serious problem was detected in an area outlined by the red circle in the slide. The problem, very simply, is that many cars cross Airport on Levander Loop, bringing students to school on the East Campus, as well as staff, and other people assigned to work there. (Point out on slide) A driver wishing to cross Airport Boulevard from the west must first stop at the intersection and look for southbound traffic. (Point out, bringing arrow south on Airport.) There is no reason to look south for any northbound traffic because a driver can't see the traffic coming from the south. The road level is too low to

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the south. (Point out on slide.) The driver, if the traffic is clear, can then cross halfway but must come to a stop again to check for that northbound traffic coming off of Loop 111. (Point out) At the same time, the driver has to keep his eye open for any southbound traffic because the rear portion of the car still extends out into those southbound lanes. So, if the driver hasn't been hit in the rear, and the traffic is clear in the northbound lanes, he can then get completely across Airport Boulevard. What makes this problem especially dangerous is that when children are coming to school in the mornings, people are also driving to work; and the northbound lanes are very full with the 8 o'clock rush.

The proposal is to take the existing median (point out) and widen it to include the red area shown on the slide. Also, a stop sign would be placed in the median to halt all traffic at the half-way point across Airport. That way, a driver could take this dangerous street crossing one step at a time, much more safely. The widened median would protect any car's rear end from on-coming traffic in the southbound lanes.

Also included in the East Campus portion of the proposal is the cutting back of an island, in order to smooth the northbound Airport traffic flow. (Point out on the slide)

- (7) The Austin Urban Transportation Department, working with TSD, has developed a special pedestrian crossing sign to be placed at certain locations around both campuses. These signs will alert drivers that deaf pedestrians are present. (Explain symbol of ear with slash)

III. The TSD Administration and the Parent Teachers Executive Board have seen and approved the proposals from the Austin Transportation Department. Now, TSD and the Austin Transportation Department will take the proposals to the Mayor and the Austin City Council. When the City Council votes and approves the proposals, the work will begin.

IV. We want to give you a little information about how to be a safe pedestrian. (Transparency of street with intersections.) If you are walking and you come to a crosswalk, stop and look both ways. If there are no cars coming, then walk across the street. Don't talk to your friends while you are crossing the street. Continue looking for cars. If there is a traffic signal at the intersection, wait until the light turns green. Make sure no cars are coming fast and then cross the street. If there is a pedestrian signal (walk-wait), the person walking must wait until the light says "walk". Sometimes you will find a crosswalk in the middle of the block. Make sure you look in both directions before starting to cross. If there are no crosswalks at a corner, be sure to look in all directions and be sure no cars are coming. Always walk on the sidewalks. Our students have a very dangerous habit. They walk in the street. We are very lucky that more students are not hurt or killed by cars. It is very dangerous to do this.

Ms. Glasco and Mr. Garcia concluded their report by stating that there would be a traffic safety contest conducted on the South Campus with the winning cottage receiving a trophy by Travis High School and treated to a picnic at Zilker Park.

Mr. Joe Ternus, Director of Urban Transportation, noted that a report had been submitted to the Council which involved a special transportation study in the vicinity of the State School for the Deaf campus areas. As a part of this study, existing conditions were analyzed and recommendations were made for improvements to transportation facilities at both the east and south campus areas.

The south campus improvements would primarily consist of additional sidewalks, pedestrian signals, crosswalks and special signs to improve motorists awareness. The east campus portion of the study focused on the hazardous traffic problem which exists at the intersection of Levander Loop and Airport Boulevard. The State Department of Highways and Public Transportation has been requested to examine the recommendations and proceed with the necessary intersection improvements to provide safety for motorists using this facility.

Mr. Ternus commented that the report submitted to the Council was reviewed and endorsed by the administration and Parent-Teacher organization Executive Board of the School for the Deaf. He stated that Austin was very privileged to have the administrators at the school, students and parents who work so closely with the City in developing cooperative programs for public safety. He urged the Council to accept the report and his office would proceed to carry the program out and administer the various improvements necessary.

In response to Councilmember Linn's question as to the time these necessary improvements would start, Mr. Ternus indicated that most of the traffic improvements would be installed within the next two weeks.

#### Motion

Councilmember Trevino moved that the Council adopt the recommendations of the Special Transportation Study and instruct the Urban Transportation to proceed as quickly as possible. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Hofmann, Lebermann\*,  
Linn, Trevino, Mayor Friedman  
Noes: None  
Absent: Councilmember Himmelblau

\*Councilmember Lebermann expressed his special congratulations for a report well done.

Mayor Friedman extended his thanks for all the work that had been done, and he felt this was an important step forward and would be looking forward to working with the State School for the Deaf on other projects that concern the City.

## APPEARANCE TO DISCUSS INSTALLATION OF INDIVIDUAL GAS METERS

Mr. Alvin Butler, Property Manager, Trammell Crow Company, requested to appear before the Council to discuss the installation of individual gas meters (361) in a mobile home park; however, Mr. Butler submitted a letter stating that he was no longer desirous of appearing before the Council.

## APPEARANCE TO DISCUSS USE OF ILLEGAL PARKING LOTS IN HYDE PARK

Mr. Tom Zelenka, Vice-President of the Hyde Park Neighborhood Association, appeared before the Council to discuss the use of illegal parking lots in Hyde Park and to seek clarification of the City's policy of enforcement of the zoning laws. Mr. Zelenka pointed out that he was speaking as an individual and wanted to seek a policy statement from the Council that would clarify the City's application and enforcement of the City's zoning laws and regulations.

He noted that for months many Hyde Park residents have complained to the Building Inspection Department about illegal parking lots owned by the Hyde Park Baptist Church. One of Hyde Park's greatest problems is the use of property zoned residential for purposes other than residential, and it was very hard to keep the area residential when without notice homes are torn down and the lot made ready for parking, despite the fact that it is zoned "A" Residence. Mr. Zelenka commented that on Avenue D there are 14 lots owned by the church that have been asphalted and are zoned "A" Residence. The church has made no effort to landscape or make functional use of the lots and in some cases trees have been destroyed by use of the asphalt. Mr. Zelenka felt that the church had knowingly violated the law and had consistently refused to take any action regarding the lots.

In referring to the Zoning Ordinance, he noted that in "A" Residence zone districts a semi-public parking lot is not allowed unless it is an accessory use and only then if the primary use of the lot is residential. The use of an entire parcel of property as a parking lot constitutes the primary and exclusive use of that parcel and therefore, it would not be an accessory use. If one wanted to place a parking lot on property zoned "A", it would constitute a use change and would necessitate a zoning change.

Mr. Zelenka then referred to the Board of Adjustment and stated briefly the Board's authority in granting variances, and pointed out that the Courts have consistently held that the Board of Adjustment may not grant a variance that authorizes a change in the permitted use of the property. This can be accomplished only by an amendment to the Zoning Ordinance by the Council. Despite what the law has said, the Building Inspections Department accepts for processing and the Board of Adjustment has approved granting variances to allow parking lots in property zoned "A". The Building Inspection Department has failed to enforce the Zoning Ordinance as charged, and he felt this law should be enforced and stop all illegal use of the property pending final action. Since the law seems to be to enforce against other places within the City concerning illegal use of property, it should be no different in this case. Mr. Zelenka felt that the City has delayed on this particular case since it involves the Hyde Park Baptist Church, and he felt that the church was not above the law. Until the City takes action to enforce the law, it is his feeling that the City has violated the neighborhood's right to notice and due process for accepting or opposing such land usage in the residential community.

Mr. Zelenka felt that the City should reaffirm its statement of policy as to the application and enforcement of the zoning law and specifically set the policy that the Building Inspection Department should not accept for processing applications for variances involving use changes. Then the Building Inspection Department should enforce the law fully and equally to all persons regardless of position or classification; and pending final action, all illegal use of property should be prevented. Such action is the least that should be done.

City Attorney Jan Kubicek stated that the aspects of this problem have been occurring for quite awhile and on Monday of this week he instructed his staff to be prepared to file a mandatory injunction in District Court, and he was prepared to proceed along these lines.

In response to Mayor Friedman's question as to this filing procedure being one that is followed in all other properties in such a position, Mr. Kubicek commented that it is in terms of on-going enforcement of the ordinances and codes of the City as adopted by the Council.

DR. RALPH SMITH, Pastor of the Hyde Park Baptist Church, was not in agreement with the term used by Mr. Zelenka that the lots were "illegal" and felt it was a matter of law to determine whether or not the lots are illegal. Also, the indication that there are 14 lots is not correct because there are only six lots. Dr. Smith pointed out that Mr. Zelenka is not a resident of the Hyde Park area but a resident of the Ridgetop area.

In discussing the parking lots, Dr. Smith pointed out that the parking lots are completely encircled by other parking lots and he felt that Hyde Park Baptist Church had done more than any other group in the area to preserve the residential integrity of the neighborhood. He stated that Hyde Park Baptist Church had been in the neighborhood for 90 years and it will still be there after all this discussion has ended. Dr. Smith commented that the parking lots were built to get the cars off of the streets in the area, and now it seems the neighbors are complaining and wanting the cars on the streets again. As pointed out in the Zoning Ordinance, the parking lots do all the things necessary as to the purposes of the Zoning Ordinance such as lessening congestion in the streets; providing light and air, preventing the over-crowding of land and to facilitate the adequate provisions of transportation.

Dr. Smith indicated that they wanted to enhance and preserve the residential character of the neighborhood and felt that if the City does have an Ordinance that can be interpreted to mean that the attendance of any church in Austin cannot grow beyond the number of people whose cars can be parked within 200 feet of the church, then the Council does need to change the Ordinance at once. He commented that Austin has never had a church as large as Hyde Park and the result is as the church expands, buildings are needed and also a place to park cars. All has been done in good faith, and Dr. Smith hoped that they had helped the City. At this time, Dr. Smith asked those who agreed that the church should be able to park on their own parking lots to please raise their hand.

In conclusion, Dr. Smith stated that he felt the City has on their staff the finest employees in the world and he was greatly upset that these City officials were being so terribly harassed as they have been over this issue.

Mayor Friedman reminded Dr. Smith that the staff he complimented also has the confidence of the Council and stated as outlined by the City Attorney the normal procedures that the staff is preparing to file.

MR. JACK McCREARY, an attorney and a member of the Hyde Park Baptist Church, commented he was aware of the position that has been taken by the City and he certainly respected people who are hired to do a job to carry it out. After reading the letter written by Mr. Zelenka, Mr. McCreary felt it was plain that Mr. Zelenka did not distinguish between the enforcement of "private desires" in contrast to the enforcement of "public rights under the police power." This is an important distinction which our own Supreme Court pointed out in the matter of zoning, and even more particularly in a church zoning case. After stating that zoning is an exercise of the police power and can only be used for the purpose of regulations which have a substantial relation to the public health, safety, morals, or general welfare, the court held it would be unreasonable to force churches into the business districts where there is noise and land values are high or into dense residential districts. The Court observed that "some people claim that the numerous churchgoers crowd the street, that their automobiles lined the curbs, and the music and preaching disturbed the neighbors. Communities that are too sensitive to welcome churches should protect themselves by private restrictions."

Regardless of what the Courts might say about an ordinance which in one breath says you may have churches in residential districts but then says that the church cannot provide parking for more people to attend the church than the number who can park within 200 feet of the sanctuary needs to be clarified. He felt that every citizen and every church in Austin is entitled to have the Council make it unnecessary for lawyers to argue or for the courts to decide whether the Council has the power to prevent churches from growing in Austin. Also, Mr. McCreary thought it was strange for somebody to suggest that their neighborhood would be improved by prohibiting off-street parking and by requiring people to park on the street instead of off the street.

He urged the Council to go on record this very day as not having a no-growth policy for churches in Austin, or do anything else that would discourage the churches from providing off-street parking for the people who attend rather than requiring them to park on the streets. This is not a matter which merely affects Hyde Park Baptist Church, but every church in Austin. Mr. McCreary asked that the present Ordinance be examined and he would like to work with the staff to create a good Ordinance that would allow churches to grow.

Mayor Friedman commented that assuming Mr. McCreary was correct that the Ordinance has to be revised, he asked Mr. McCreary if he felt that during this time the study was being done, the church should not be using the parking lots in question. Mr. McCreary noted that across the street from the church was a shuttle bus stop and the students use the parking lots to park their cars and then ride the bus to school. He commented this posed no problem for the church and asking that the parking lots not be used until a decision is reached on the Ordinance, would be denying the students use of these lots. As an attorney, Mr. McCreary stated that he took a very serious legal question on the problem of separation of church and state, and felt that the past administrations and Councils have recognized that there is an important problem.

Mayor Friedman pointed out that no one in the City, past or present official, has ever said that the laws governing the rights of every individual citizen in Austin will be enforced except for the churches. If one wished to ignore an ordinance or a law, that was their right but the system of law does not break down and ignore illegal procedures. He commented that the City Attorney would have to continue his legal remedy but agreed that the ordinance should be studied.

In response to Mr. McCreary's question as to this applying to all of the churches, Mayor Friedman stated that the Building Inspection Department and other City employees have an obligation to find improper uses of zoning and correct them. Mayor Friedman commented that the Council or the administration could not condone the use of the parking lots in violation of the Ordinance, and if the problem has to be settled in Court to solve the issue, then this is what will be done.

Mr. McCreary felt that there was a much more serious problem involved than the complaint against the church and urged the Council to examine the Ordinance and consider the facts, but don't ask the church to put cars on the streets.

Mayor Friedman noted that if the City Attorney feels that this matter should be handled in Court, then that is the way it will be, and the Council will not interfere. However, in addition procedures should be started to examine the Ordinance. He did not want anyone to think that Hyde Park was being selected out of a dislike for it and that no one could be exempted from the enforcement of a ordinance that has been passed by a previous Council until that ordinance is changed. Mr. McCreary was disturbed that one individual could come before the Council and raise a complaint and have one church singled out and reiterated his remarks concerning the review of the Ordinance.

Mayor Friedman noted that the City Attorney had very clearly outlined the procedures he has been following and what he feels is his obligation. Regardless of what the ultimate decision is as whether to proceed or not, it is very proper that the Planning Department and the Building Inspection Department work with the various boards and commissions who are attendant to these types of programs to start investigation of this Ordinance, with the help of the City Manager and the City Attorney, to propose any additional changes, if any, or the accurate enforcement of this ordinance as it is written. At the same time, laws have to be obeyed even if they are not agreed with.

Mr. Zelenka asked the Council to drive to the Hyde Park area and examine the situation as to the parking lots, and urged them to consult with the residents as to their feelings concerning this situation. Mayor Friedman stated that he wanted to include Mr. Zelenka, the Hyde Park Association, Dr. Smith, Mr. McCreary as well as the representatives from churches around the City in the discussions with concerned City department heads concerning this ordinance.

#### ZONING DENIED

Mayor Friedman announced that the Council would hear the zoning case scheduled for 10:00 a.m. for public hearing at this time. Pursuant to published notice thereof, the following zoning case was publicly heard:

CARLOS J. CACERES  
C14-75-119

1714 East 38th Street

From "A" Residence  
1st Height and Area  
To "C" Commercial  
1st Height and Area  
NOT Recommended by the Planning  
Commission

Mr. Dick Lillie, Director of Planning, reviewed the application and noted that it was located in a neighborhood that is totally zoned for single-family residential and this application is a request for a zoning to "C" Commercial District. He noted that a building in the rear of the property has been used for silk screening and the applicant inherited the property and the business is no longer being conducted on the property. This application would be to allow that business to open again. At this point, Mr. Caceres pointed out that the business was operating on a part-time basis.

In response to Councilmember Linn's question as to the length of time the business has been operating, Mr. Lillie stated that it has been there for 15 or 20 years, possibly longer. A petition was filed by about a dozen property owners adjacent to the property along with the application that favored the use and that for all practical purposes the property is being used as a residence.

In the staff's review and in their recommendation to the Council, regardless of the use, once zoned the property could be used for any purpose that is allowed under "C" Commercial usage. Therefore, the staff recommended and the Planning Commission agreed that the zoning would be an encroachment into that neighborhood and should not be granted.

In response to Councilmember Linn's question as to the source of the complaint, Mr. Lillie felt that it was possibly a neighbor. In response to Councilmember Trevino's question as to a restrictive covenant being instituted, Mr. Lillie stated that this would not be possible in this case because in most instances where this is done, the zoning that would be granted is permissive and this would simply be a condition added onto that use as opposed to a commercial operation within a residential zoning.

In response to Councilmember Linn's question as to the zoning reverting to "A" Residence District if this use was removed, Mr. Lillie commented that the Council has done this in the past.

In response to Councilmember Himmelblau's question as to whether the zoning could qualify for "O" zoning if the silk screening was considered an art form, Mr. Lonnie Davis, Director of Building Inspection, commented that due to their operations, it would require "C" Commercial zoning. Mr. Davis noted as to the source of the complaint, it came from an anonymous caller.

Councilmember Himmelblau felt that if it was placed under "O" Office zoning it would be more acceptable in a residential neighborhood. Councilmember Hofmann found it difficult to understand that an anonymous phone call, after 20 years of no complaints, should be the ruin of one man's business.

Mr. Lillie pointed out that in past zoning cases, occasionally the Council has granted zoning and if the use ever stopped the zoning would revert back to "A" Residence District. This would mean that the Building Inspection Department would have to keep a close watch for any changes in the status of the

building, in this particular case. It would also require a refileing for a zoning from "C" Commercial to "A" Residence, and action by the Council for this change.

Councilmember Trevino asked also if it was possible to include the stipulation that the business could not increase in size of the structure. City Attorney Jan Kubicek stated this would pose no problem.

MR. CARLOS CACERES, applicant, stated that he had received this property as an inheritance and he had strived to improve the property that he had inherited. Mr. Caceres commented that the business had been there for 25 years and by driving down the street there would be no way one could distinguish that a business was in operation. At this time, Mr. Caceres showed the Council some slides of his property. He pointed out that the only work done in the shop is the creation of bumper stickers and decals. Mr. Caceres stated that he had talked to some of the property owners in the neighborhood and informed them that he did not want a zoning change for the entire property. He felt that this complaint was the result of someone who was opposed to his inheritance of the property. After consulting with some of the neighbors in the area, it was their consensus that they were indifferent as to whether the business operated or not, but they did not want a zoning change for the entire neighborhood.

Mr. Caceres stated that he was willing to do what is necessary in order to continue his operation. In response to Mayor Friedman's question as to the number employed, Mr. Caceres indicated that it only involved one part-time person, as well as himself and his wife. Mayor Friedman asked Mr. Caceres if he would agree to limiting the use to what was being requested and when the use was no longer there that the zoning would revert back to "A" Residence, Mr. Caceres stated he agreed to this.

MRS. FRANK THOMAS, 1727 East 38th Street, stated that she strongly objected to any kind of business being in a residential neighborhood such as the one she lived in. Mrs. Thomas also submitted letters from two home owners who could not be present, Mr. Billie Brock, 1721 East 38th Street and Dale Carpenter.

MR. ED CALLAHAN noted his opposition to the zoning change primarily because of the area being residential and cited his other reasons for his opposition. He opposed any property in an "A" Residence area being zoned "C" Commercial for business use. The petition that was submitted was not signed by many of the property owners in the area. He noted that the Planning Commission received 32 objections to the zoning change and only 6 in support of it.

In response to Councilmember Linn's question as to Mr. Callahan's objection to the business, Mr. Callahan stated he objected to the business primarily because of the use of chemicals that would be needed to do the silk screening which could be a fire hazard. He noted that he also was opposed to the non-conforming usage that was being operated at the present time.

In response to Mayor Friedman's question as to the use being a non-conforming one that was permitted as long as the original owner continued the operation, Mr. Lillie stated there was not a non-conforming issue involved, but that it probably began illegally. Since taxes have been collected on the business, the City should have corrected the error or should not have charged any taxes.

Mr. Callahan felt that if this zoning change was granted, then he felt he should submit a request to open a shop in his backyard also. Councilmember Trevino felt that there was a big difference in that the business in question has been operating for 20 years.

MS. ADRIAN DEER, 1726 Giles, requested that the Council not validate the present use of the property in question and felt it would set a precedent that would lead to the deterioration of the neighborhood. Ms. Deer referred to the deed restriction on the property and pointed out that no business should be allowed on the property. She also was concerned about the various inks and dyes that would be used in the silk screening process and felt they were very inflammable. In response to Councilmember Linn's question as to the zoning change and the continuation of the business presently being operated, Ms. Deer commented she was opposed to both the zoning change and the operation of the business because it is a non-conforming use. Ms. Deer also pointed out that she had been made aware of another business operating in the area and the Building Inspection Department was in the process of checking this complaint. In response to Councilmember Trevino's question as to whether Ms. Deer was aware that this business existed when she moved into the neighborhood, Ms. Deer stated she was not aware it was there.

ROY BROOKS, 1703 Giles, noted that he had lived at this address since 1973 and until this time had no knowledge of the business. He commented that he had written the Council on February 4, 1976, discussing this problem as well as others. Mr. Brooks was opposed to spot zoning in a residential neighborhood and felt it would set a precedent, and he asked that the Council not approve the request for "C" Commercial District. In response to Councilmember Linn's question as to his opposition to the business under any circumstances, even if the zoning was not changed, Mr. Brooks stated he was opposed to "C" Commercial zoning.

MARIE KINGSLEY, 1709 East 38th Street, noted her opposition to the zoning change and would like the zoning to remain "A" Residence. In response to Mayor Pro Tem Snell's question as to whether she would be opposed to the business or the zoning change, Mrs. Kingsley stated she opposed both.

DARRELL PETTIGO, 1711 East 38th Street, commented that he did not want to see the neighborhood turn into a commercial area, but if a restrictive covenant was instituted whereby this particular business could continue as is presently being done, then he would be in favor of it.

ROBERT FLOYD, 1715 East 38th Street, commented that he had been in the shop and felt there were no hazards and that it posed no environmental problems. Therefore, Mr. Floyd felt that the business should be allowed to continue. If anyone else wanted to open a similar shop he would not object.

MR. C. M. ARNOLD, 1712 East 38th Street, commented that he lived in the area since 1947 and that there was no secret that this business existed and he was not aware of any complaints about it either. He felt Mr. Caceres was an asset to the neighborhood and if the zoning change was necessary for Mr. Caceres to continue the business, then he supported the change.

MR. ERIC HORNER commented that he had been working with Mr. Caceres part-time and could see no reason why the business should not continue.

Motion

Councilmember Linn moved that the Council uphold the recommendation of the Planning Commission to deny the request for a zoning change. The motion was seconded by Councilmember Himmelblau.

Councilmember Himmelblau stated that she was in sympathy with Mr. Caceres and did not believe that one's own art work couldn't be carried on; however, she was strongly opposed to "C" classification in a residential neighborhood; and it would so show on the zoning maps in the future. This is the reason for her negative vote.

Substitute Motion

Councilmember Trevino moved that the Council grant Mr. Caceres the zoning change with a reversion clause that if the business is not used in its current fashion by the present owner that the zoning would revert back to "A" Residence; and that the facility would not be allowed to enlarge physically; and that the Fire Marshall would insure the Council of the safety of the business and residents around it before it is approved. The motion, was seconded by Councilmember Hofmann.

Roll Call on Substitute Motion

Ayes: Councilmembers Trevino, Hofmann  
Noes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Linn, Himmelblau, Lebermann

Mayor Pro Tem Snell commented that due to his effort in getting all the property rolled back in East Austin that he could not vote for this zoning change, and at the present time he was leading an effort to rollback all the commercial zoning in residential sections. Mayor Pro Tem Snell stated he would like to see the business remain if there was any way possible to do this without changing the zoning.

The Mayor announced that the substitute motion had failed to carry.

Roll Call on the Original Motion

Roll call on Councilmember Linn's motion, Councilmember Himmelblau's second, to deny the request for a zoning change showed the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Lebermann, Linn  
Noes: Councilmembers Trevino, Hofmann

The Mayor announced that the zoning change had been DENIED.

AFTERNOON SESSION  
2:00 P.M.

Mayor Friedman called the afternoon session to order.

EXECUTIVE SESSION ACTION

Mayor Friedman announced that the Council had been in an Executive Session earlier and had discussed several legal and personnel items and also considered setting an executive work session dealing with personnel on April 13 at 7:00 p.m.

Mayor Pro Tem Snell moved that the Council set an executive work session on April 13 at 7:00 p.m. to discuss personnel matters. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro  
Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Not in Council Chamber when roll was called: Councilmember  
Lebermann

Mayor Friedman stated that due to other commitments no board appointments were made; however, next week board appointments will be made to the following boards and commissions: week board appointments

Mental Health Mental Retardation	-	3
Parks and Recreation Advisory Board	-	10
Community Development Commission	-	5
Human Relations Commission	-	2
Arts Commission	-	2

In addition, Mayor Friedman noted that since we are entering the phase of development of the Master Plan in which the Planning Commission will play a very intricate and important role, the Council considered the appointment of Planning Commission members to be made on April 8, 1976. They will not take office, but will be ex-officio to observe all proceedings and all programs being developed on the Master Plan so that when their term does take place starting sometime in June, they will be aware of what work has been done.

Councilmember Trevino moved that the Council appoint Planning Commission members on April 8, 1976, who will serve as ex-officio members to observe all proceedings and all programs being developed on the Master Plan, so that when their term begins sometime in June they will be aware of work that has taken place. The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro  
Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Not in Council Chamber when roll was called: Councilmember  
Lebermann

Mayor Friedman announced that Councilmember Lebermann had been delayed but would be present shortly.

#### DISCUSSION OF ESTABLISHING AN EXOTIC GAME PARK OR ZOO

Mr. Marshall E. Kuykendall appeared before the Council to discuss the establishment of an exotic game park or zoo in the City of Austin. Mr. Kuykendall noted that there is some land located near Buda, Texas, owned by Mr. Cecil Ruby on which Mr. Ruby has several hundred African exotics. He felt that Austin has a very unique opportunity to have their own game ranch which would be composed of non-aggressive animals and that it would be located at the Decker Lake Project which has 3,647 acres. After discussing this idea with the members of the Planning and Parks and Recreation, Mr. Kuykendall stated that he was informed of no concrete plans for this acreage. Therefore, he proposed that the Council check the possibility of designating this land for a game ranch, and he volunteered his services to aid in this program if adopted.

Mayor Friedman noted the Council's appreciation for Mr. Kuykendall's interest, and suggested that he work with Mr. Jack Robinson, Director of Parks and Recreation, as well as Mr. Dan Davidson, City Manager, to pursue this idea in more detail. It would also have to be pursued by the Parks and Recreation Board. Mayor Friedman accepted Mr. Kuykendall's offer to work with the administration trying to develop this proposal to be presented to the City.

City Manager Davidson noted he would be glad to work with Mr. Kuykendall on this proposal.

#### APPEARANCE TO DISCUSS THE SOUTH TEXAS NUCLEAR PROJECT

Mr. John Gordon appeared before the Council to discuss the South Texas Nuclear Project and the role of nuclear energy in general. Mr. Gordon referred to his report that was distributed to the Council and began his presentation by reviewing his professional background and his involvement in energy matters.

In his report, Mr. Gordon addressed himself to the following questions:

1. "Does your commission on electric rates know what it is talking about when it suggests that Austin withdraw from participation in the South Texas Nuclear Project?"
2. "Did the commission have sufficient information on natural gas as a fuel?"
3. "Did the commission have sufficient information on oil as a fuel?"
4. "Did the commission have sufficient information on coal as a fuel?"

Mr. Gordon concluded his report by saying that the actions of the Commission on Electric Rates appear to him to be deliberate, malicious, and possibly criminal. He respectfully requested the Council to require the commission to describe its

analysis or lack of analysis on each of the points in his discussion

If the commission has not in fact fully analyzed these issues, then he requested that the City Council publicly censure the members of that commission responsible for such actions. (The detailed report of Mr. Gordon's presentation is on file in the City Clerk's office.)

Mayor Friedman stated that many of the questions that Mr. Gordon had raised in his presentation are questions that have been corresponded on through the Daily Texan. Mayor Friedman felt that this commission has had more information than has ever been distributed about the nuclear plant and the cost. The Council has received an extensive briefing and if there is more information forthcoming from the Electric Utility Department, it will be considered at that time. He suggested that Mr. Gordon remain at the Council and hear the report that will be presented by the Commission on Electric Rates on participation in the South Texas Nuclear Project which would be presented later in the meeting. Mayor Friedman felt that many of Mr. Gordon's questions were hypothetical and also suggested that he present his questions to the commission.

In response to Councilmember Linn's question as to Mr. Gordon being associated with any consulting center here, Mr. Gordon commented that he was associated with the Center for Energy Studies, and they are in favor of obtaining energy from a nuclear force. Mr. Gordon noted that at the present time, he was not on a scholarship for this group.

Councilmember Trevino encouraged Mr. Gordon to attend the meetings that are held by the Commission to discuss any deficiencies on information that he might think needs attention.

In response to Councilmember Linn's question as to Mr. Gordon being paid for any of his work in studying the different sources of power, Mr. Gordon commented that he worked for the Center for Energy Studies 20 hours a week.

Councilmember Hofmann expressed her displeasure with Mr. Gordon's statements about the commission in that their actions would be deliberate, malicious and possibly criminal, and his reference to Mayor Friedman which was an unpleasant statement.

#### CONFIRMATION OF CHIEF OF POLICE APPOINTMENT

Mayor Friedman stated that after a series of interviews were conducted by the City Manager to recommend to the Council the new Police Chief, it was City Manager Davidson's recommendation that the Council consider Mr. Frank Dyson, formerly of Dallas, Texas, for the appointment.

City Manager Davidson acknowledged the great amount of time the Council has spent in scrutinizing this recommendation and the many people that have been talked with concerning this appointment. He expressed his appreciation for all the time and effort that has been exhausted to make what may be the most important appointment in the next 10 or 15 years. Mr. Davidson felt with all the input and involvement that this is a fitting conclusion to the selection process and still recommended Mr. Frank Dyson.

Councilmember Trevino made the following statement concerning this appointment:

"I would first like to compliment the City Manager on the arduous and painstaking approach he and his selection committee took in the search for a new Chief of Police. The selection process used was the most exhaustive that I have ever seen. Furthermore, I believe it paid off.

I spent several days in Dallas talking to people from all segments of that community about Mr. Frank Dyson. From community leaders to persons on the street, almost without exception, I heard nothing but praise for Mr. Dyson. In fact, the most common response was "hire him." Mr. Dyson has already met with people from various segments of the Austin community and here, too, the selection of Mr. Frank Dyson has met with near unanimity. My conversations with Frank have given me confidence that he will be the type of Chief who can, and will, win and maintain the respect of his department, the minority community and the citizenry at large.

I would like to personally welcome Mr. Frank Dyson to our community and wish him the best of luck. I look forward to working with him, and it is with great pleasure that I vote in favor of his confirmation."

Councilmember Trevino moved that the Council adopt a resolution confirming the appointment of Mr. Frank Dyson as the Chief of Police. The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell,  
Councilmembers Himmelblau, Hofmann, Lebermann, Linn  
Noes: None

Councilmember Lebermann commented he voted "yes" and with great pleasure.

Mayor Friedman stated that on behalf of the Council and the City Manager he would like to introduce Austin's Chief of Police, Mr. Frank Dyson and his wife, Mary.

Mr. Dyson commented that he was delighted that the Council and the City Manager had shown their confidence in him by confirming this nomination. He realized the important work that faced him and he accepted it enthusiastically and gratefully. He recognized the time that has been expended to make this selection and felt that the Council was entitled to a vote of thanks from every member of the community in this respect. Mr. Dyson noted that he had been involved in one of the most extensive selection processes and felt that the City of Austin should be grateful for this kind of effort on the part of City government. He assured the Council that he would make every effort to work with every member of the Austin Police Department, every member of City government, and every citizen within the City limits of Austin to see that we have the most professional, and most effective law enforcement that anyone in this State or nation can have. He felt this feeling was shared with every member of the Austin Police Department and every member of the community with whom he had talked.

Mr. Dyson stated that it is with a great deal of delight and anticipation that he accepted this nomination and confirmation and was looking forward to working with each of the Councilmembers and every citizen in the Austin community.

PUBLIC HEARING ON PUBLIC ACCOMMODATIONS ORDINANCE

Mayor Friedman opened the public hearing scheduled for 2:30 p.m. to consider the Public Accommodations Ordinance.

EUELA LANE, Chairperson of the Subcommittee on Public Accommodations, reviewed the ordinance beginning with the Declaration of Policy and in response to Mayor Friedman's request enumerated the places of public accommodations under Section 2-G.

In response to Councilmember Himmelblau's question as to the Ordinance covering just about everything in the Civil Rights Act, MAXINE FRIEDMAN, First Vice-Chairperson of the Human Relations Commission, commented that Title II does not cover bars and taverns and that the regulation and the sale of liquor shall be regulated by the State. The intent of this Ordinance was to close the loop hole that existed.

TOMMY INGRAM, a member of the Coordinating Council of Gay Community Services, felt that it was vitally important to grant local protection to the homosexual population of Austin. He felt that the Human Relations Commission should be congratulated for their work on this Public Accommodations Ordinance that will provide anti-discriminatory protection on a level with, if not better than the Equal Employment Ordinance passed by the Council in August of 1975. He was grateful to the Council for their interest in the rights of all citizens in the community and was looking forward to the day when a Housing Ordinance will join these to provide the most comprehensive protection available to the homosexuals.

RUTH EPSTEIN, Travis County Democratic Women, supported the Ordinance and felt it would lessen discrimination and make life better for all citizens. Mayor Friedman noted his appreciation of the work of the Travis County Democratic Women and also their support of the Ordinance.

Councilmember Linn moved that the public hearing be closed and that the Public Accommodations Ordinance be presented to the Council in final form on April 1, 1976, for approval. The motion, seconded by Councilmember Trevino, carried by the following vote:

- Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Trevino
- Noes: None

Mayor Friedman thanked the Human Relations Commission, particularly the Subcommittee for the tremendous amount of work that was done to create the Ordinance. He felt this is a continuing effort to give everyone the same amount of equal opportunity and he was looking forward to working with the Commission on other facets along this line.

RELEASE OF EASEMENT

Councilmember Linn moved that the Council adopt a resolution authorizing release of the following easement:

Two portions of Public Utilities Easements five feet in width and being all of the south five feet of the west 225.15 feet of Lot 6-A and all of the north five feet of the west 225.15 feet of Lot 6-B, of the Resubdivision of Lots 3 and 6, of the T. C. Steiner Resubdivision of Blocks 37, 12-P, 12-0 and the southerly 90 feet of Block 12-S, Fairview Park Addition. (Requested by E. H. Smartt, Attorney representing Mrs. Velma Keller (Mrs. J. Pearce Keller) owner of Lots 6-A and 6-B)

The motion, seconded by Councilmember Hofmann, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Lebermann, Linn, Trevino, Mayor Friedman  
Noes: None

#### COST DIFFERENCE PAYMENTS

Councilmember Himmelblau moved that the Council adopt a resolution authorizing payment to the following:

NPC REALTY COMPANY, Nash Phillips, Attorney-In-Fact, the cost difference of 12"/8" Water Main and Appurtenances installed in Cherry Creek, Phase VI, Section II - \$12,678.15.

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

Councilmember Himmelblau moved that the Council adopt a resolution authorizing payment to the following:

NATIONAL BANK OF COMMERCE, Bill Cone, President, the cost difference of 12"/8" Water mains and Appurtenances installed in McCann Annex Number 2, Resubdivision of Lots 2 and 3 - \$7,228.46.

The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

CONTRACTS AWARDED

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

JOHNNY R. FRY  
d/b/a 7 J's  
2100 Oxford Avenue  
Austin, Texas

- Food, Drink, and Miscellaneous Items, Lake Austin Park, Parks and Recreation Department.
- Two-years contract period, including options for two, two year extensions.
- 4% of Gross Receipts
- Estimated Revenue, \$300.00/per annum.

The motion, seconded by Councilmember Trevino, carried by the following vote:

- Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau
- Noes: None

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

Bid Award:

- Food, Drink and Miscellaneous Items, Municipal Annex Building, General Services Division of Department of Purchases and Stores.

a. Rescind on basis of "mutual termination" approval on October 23, 1975, of an award to Austin Catering Company, and replace with:

b. ACME FOOD SERVICE  
611 Neches Street  
Austin, Texas

- Two years contract period, including options for three additional one year extension.
- 12-1/2% of gross receipts; estimated revenue of \$5,500.00 annually based on gross receipts of \$44,000.00/annum

The motion, seconded by Councilmember Trevino, carried by the following vote:

- Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau
- Noes: None

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

K-B CONTRACT CLEANING  
1507 West North Loop  
Austin, Texas

- Custodial Cleaning, Municipal Building & Municipal Annex Building, General Services Division of Department of Purchases and Stores.  
Item No. 1; \$3,025.00 per month or \$36,300.24 per annum, including options for two, one-year extensions.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

Councilmember Linn moved that the Council adopt a resolution rejecting bids as follows:

Rejection of all bids. - Custodial Cleaning, Various Locations.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

Mayor Pro Tem Snell asked if the above two contracts were connected since it was his understanding that there was some misunderstanding involved in the bids by the contractors. He felt if one was rejected, then they all should be. Mr. Homer Reed, Deputy City Manager, responded by stating that they were not related that this item was a rejection of bids received on 16 different locations that are smaller buildings than the ones listed in item on K-B Contract Cleaning. Mr. Solon Bennett, Director of Purchases and Stores, commented that K-B Contract Cleaning could bid individually on each building or could have bid on the entire contract. Mr. Bennett pointed out that when a bidder submits his bid, he can condition it on an all or none basis if he so desires.

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

FAULKNER CONSTRUCTION COMPANY  
P. O. Box 722  
Austin, Texas

- Construction of New Central Library - \$4,471,500.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

Councilmember Hofmann expressed concern about this amount under consideration, and thought that a report or memo was received several months ago stating that the actual construction bids came in for \$1 million less and at that time there was some discussion as to what would be done with the money.

Mr. Homer Reed noted that the bids did come in very good and there is approximately slightly less than \$1 million remaining in the construction fund for libraries.

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

STAR-LINE ENTERPRISES, INC.	- Emergency Medical Vehicle, Vehicle
323 Broward	and Services Department.
Sanford, Florida	Item 1 - \$20,995.80

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

Councilmember Himmelblau asked why are vehicles being replaced when the City just recently took the ambulance service over and spent a mint of money on the equipment received from Austin Ambulance Company. Mr. Bill Lever, Director of Emergency Medical Services, indicated that as of January, 1977, the existing modulancess will begin a recycling program for change of chassis and will create a loss of one ambulance per month for the next eight months. It will take approximately 120 days to receive a new ambulance and would only allow the Service one ambulance in reserve. The Vehicle Maintenance Department has been able to keep the ambulances operating since they are in very poor mechanical condition.

Councilmember Linn thought this was rather strange because when they were purchased last summer, the Council was informed that they were in excellent condition. Mr. Homer Reed pointed out that the chassis is what is under discussion and not the EMS unit itself. Councilmember Linn stated that one of the main concerns was that the equipment would not last long enough for the City to even get back their money, and now this indeed seems to be the case. Mr. Les Rogers, Director of Vehicle and Equipment Services, indicated that upon receiving the ambulances, his department found that baling wire had been used to keep them running, and this was a fact.

In response to Mayor Friedman's question as to the condition of the ambulances, Mr. Rogers stated that as far as the models, the appearance of them was fine, but they had not been maintained properly. This was not known before purchase. Mr. Rogers indicated the work that had been done on the ambulances and commented that they had been refurbished one at a time in an effort to give the City a safe vehicle. Councilmember Linn requested that she be presented with a report on this problem because the Council was told that this was good equipment that would not have to be replaced for years. Mayor Friedman requested information as to how the equipment was bought without having the proper examination made on it.

Mr. Homer Reed submitted that about half of those vehicles were vehicles that were bought with the approval of the Council prior to their being purchased. A contract was entered into at that time providing the amortization schedule and the City really had no choice on that when we took over the contract. He stated a report would be presented next week covering the requested information.

In response to Councilmember Himmelblau's question as to whether Austin Ambulance had been paid in full yet, Mr. Joe Liro, Management and Budget Administrator, commented they had not. Mayor Friedman requested that any additional payment to them be halted until the report is presented. Councilmember Himmelblau felt that the City does have some recourse, and she certainly would like to see it exercise its options.

Mayor Friedman requested that this report be obtained to find out exactly what kind of condition the equipment was in when the City received it; a detailed breakdown on what kind of agreements, both oral and written, the City had with Austin Ambulance as to what kind of condition the equipment was in from their viewpoint. Mr. Rogers commented he would be happy to get this information. Mayor Friedman suggested a breakdown unit by unit. Councilmember Linn asked that she have copies of the Minutes of those meetings where discussion of the equipment's condition occurred.

SELECTION OF ARCHITECTURAL SERVICES

The Council had before it for discussion selection of Arbbitectural Services in connection with the following 1976 CIP Project for the Parks and Recreation Department:

Senior Citizens Activity Center.

Motion

Councilmember Lebermann moved that the Council adopt a resolution selecting the firm of PETERS & FIELDS for architectural services in connection with the aforementioned 1976 CIP Project for the Parks and Recreation Department. The motion was seconded by Councilmember Himmelblau.

Substitute Motion

Councilmember Trevino moved that the Council select the firm of LEONARD LUNDGREN & ASSOCIATES for architectural services in connection with the aforementioned 1976 CIP Project for the Parks and Recreation Department. The motion died for lack of a second.

Roll Call on Original Motion

- Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann
- Noes: None

REQUEST TO HOLD BOAT RACES ON TOWN LAKE

The Council had before it for consideration a request of the American Power Boat Association and the Waco Boat Club to hold boat races on Town Lake on Sunday prior to June 1, 1976. (Navigation Board recommends disapproval)

Councilmember Linn moved that the Council deny the request of the American Power Boat Association and the Waco Boat Club to hold boat races on Town Lake one Sunday prior to June 1, 1976. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Hofmann, Lebermann, Linn, Trevino

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

Mr. Lonnie Davis stated that the applicant had phoned him from Waco and asked that this request be postponed until sometime in July and would be unable to be present at the Council meeting today.

MRS. PAT SPRADLEY, a resident of the Travis Heights area, supported the denial of this request and noted that the residents in the Travis Heights area are very much concerned over the noise created by the power boats on Town Lake. Mrs. Spradley inquired if there was some way to stop the additional boats on Town Lake.

Mayor Friedman pointed out that all requests to use the lake for boat races has to be approved by the Council and some have been eliminated due to many complaints. However, there is no policy to eliminate them entirely and he suggested that Mrs. Spradley contact and meet with the Citizens Board of Natural Resources and Environmental Quality.

#### TRANSIT SYSTEM MANAGEMENT CONTRACT WITH AMERICAN TRANSIT CORPORATION

Councilmember Linn moved that the Council adopt a resolution authorizing the execution of a transit system contract with American Transit Corporation. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

#### TEMPORARY STREET CLOSING

Councilmember Linn moved that the Council adopt a resolution closing PEARL STREET from 24th to 25th, from 3:30 p.m. to 5:30 p.m. on April 2, 1976, as requested by Mr. Clark Wicker representing the Lambda Chi Alpha Fraternity. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

## AMENDMENT TO COOPERATION AGREEMENT

Councilmember Linn moved that the Council adopt a resolution approving the Amendment to a Cooperation Agreement for payment to the City of Austin of an additional amount of \$4,302.85:

Miscellaneous engineering services in connection with the construction of Red River Street and Waterloo Park in the Brackenridge Area, Tex. A-11-1.

The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None

## ACQUISITION OF CERTAIN UNDIVIDED INTEREST

The Council had before it for consideration the possible authorization of a resolution authorizing the acquisition of 25% undivided interest in the open playground areas of Odom Elementary School and Pecan Springs Elementary School. In response to Councilmember Hofmann's question as to the school paying the City for the children using the play equipment, Mr. Homer Reed commented that the City was paying for a 25% undivided interest in the property and would get the advantage of buying it for the original cost, plus the cost of improvement. Mr. Joe Morahan, Director of Property Management, stated that the agreement dates back to 1960 and it is a mutual, beneficial arrangement.

Mr. Reed indicated that this was a part of a multi-sided agreement with the school district whereby the City uses some of their building facilities in the summer and the City pays the electricity during the summer. Councilmember Himmelblau felt that Councilmember Hofmann was requesting that another look be taken at this agreement. Councilmember Himmelblau stated she was interested in examining the agreement of the City paying the electric bill during the summer. Mr. Reed agreed that a review of the agreement is certainly in order and would proceed.

MR. WOODROW SLEDGE, representing the Austin Independent School District, noted that the 25% idea was based on the fact that the City uses the property 1/4 of the year during the summer.

Councilmember Linn moved that the Council adopt a resolution authorizing the acquisition of 25% undivided interest in the open playground areas of Odom Elementary School and Pecan Springs Elementary School. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

## PUBLIC HEARING ON VENDING COMMITTEE REPORT

Mayor Friedman opened the public hearing scheduled for 3:30 p.m. to consider the Vending Committee Report.

MS. SHURI RICHNOW, a member of the Vending Committee, gave a summation of the Vending Committee's Majority Report. The Committee had conducted two public hearings to solicit input and ideas on the future of the market and three public meetings to synthesize the input and develop the following recommendations for Council consideration and setting up of a public hearing to amend the Vending Ordinance:

1. Open market concept which allows arts and crafts and import to be sold. This affirms existing conditions.
2. Market hours of operation to be from 8:00 a.m. to 10:00 p.m. and a curfew to be from 10:00 p.m. to 8:00 a.m. All items must then be removed from the market area.
3. To occupy a space, a vendor must be physically present on the space or have the merchandise normally sold physically displayed.
4. Close 23rd Street between Guadalupe and San Antonio Streets year around, excluding the alleys on Saturdays, to allow vending in the street.
5. Space size to be eight feet wide and seven and one half feet deep year around. This reaffirms the present provision.
6. Limit the sale of vending permits to one person, organization or entity. This also reaffirms present provision.
7. Vending permits will be sold only between February 1 through January 31. Annual permit fee will be \$24 per year, pro rated at \$2 per month during the time permits are sold. Ms. Richnow stated that the committee had a provision for the transition.
8. Between November 1 and December 25, a lottery will be held each week for vending spaces for each day of the following week, with an equal chance given to all vendors holding a basic vending permit. Spaces chosen in the lottery would be reserved for the lottery winners from 8:00 a.m. to 9:00 a.m. and at 9:00 a.m. the remaining spaces would be opened to any vendor holding a permit.
9. Twenty-third Street between Guadalupe and San Antonio, excluding the alley, will be closed Thursday, Friday, and Saturday, from November 1 through November 30 and will be closed Monday through Saturday from December 1 through December 25.
10. The Committee further recommended that the City Council should hold a public hearing prior to any amendments to the Vending Ordinance. This, too, reaffirms the present provision.

11. The minimum fine for violation of the Vending Ordinance will be raised from \$5 to \$25 with the maximum fine remaining at \$200. Any vendor who is found guilty in Municipal Court for a charge of violating the Vending Ordinance will have their vendor permit automatically revoked, in addition to the fine the vendor and/or their business entity shall have, and a vendor and a business entity are prohibited from purchasing another permit or appearing as a helper for another vendor for a period of one year.
12. The vendor permits are not transferable or reassignable. This reaffirms the present provision.

The Committee found no evidence of need and little desire on the part of anyone to seek other market areas in the City of Austin. The Committee felt that if other market areas were created, they would not be used enough to justify their existence. They further recommended that for the present, the City of Austin not extend or appropriate additional funds beyond the level now being spent for the operation, alteration or expansion of the 23rd Street market area. Ms. Richnow cited as reason for this recommendation that overall availability of space is not a problem, only the availability of quality space seems to be an issue. She stated that the Committee found this problem universal with all retailers in the community and not indigenous to the 23rd Street market area. They found the 23rd Street market area generally free of violence. They felt that reported acts of violence are isolated and can be best dealt with by existing enforcement of City ordinances and State laws as are all other criminal and mischievous acts. This completed the Majority Report from the Vending Committee.

#### Minority Reports

MR. ROLAND DeNOIE recommended that the Council rescind the Vending Ordinance of 1972 and allow people to return to the streets to sell on a free market system as existed in Austin prior to 1972. Mr. DeNoie made special mention of graphic artists who, he believes, should be allowed to seek out markets in the City on the sidewalks as was allowed before 1972. He then showed a short film documenting the situation at the Austin market.

MS. ALICE ROBERTS stated that the title "open market concept" was erroneous and that the proper name for the market was the "renaissance market." She also stated that she personally felt that vending permits should be sold all year around as opposed to only 6 months endorsed by the Committee. Ms. Roberts then read a statement from Mr. Alvin J. Golden, Chairman of the Arts Commission. The statement was as follows:

#### Arts Commission Recommendation

"Whereas the Arts Commission was appointed by ordinance by the City Council and was charged with the responsibility of advising the City Council concerning fostering and assisting the development of the arts in the City of Austin, whereas the area in and around Guadalupe Street and 23rd Street has been designated as a renaissance market for the purpose of allowing arts, crafts, and novelty items to be sold on the street and whereas such markets have become dominated by importers to the detriment of those citizens of Austin who produce the wares they attempt to sell in such markets and

whereas said local craftsmen cannot effectively compete in such situations, now therefore, be it resolved that the Arts Commission of the City of Austin recommends that sales of merchandise and wares in the renaissance market be limited to such items as are produced by artists and craftsmen seeking to sell same, and that the sale of mass-produced items be prohibited from the renaissance market. This resolution was unanimously adopted by the members of the Austin Arts Commission at their meeting on Thursday, March 18."

Ms. Roberts then mentioned six other markets in the United States that restrict merchants to arts and crafts persons who make what they sell. She also cited the Berkeley market as an example of this.

The Council then heard statements and opinions from approximately 30 to 35 persons in regards to the "open market concept." The following persons spoke to the Council in favor of the "open market concept:" (arts and crafts and importers)

Jan Husal, George Humphrey, Pat Vance, Ellen Lindsey, David Whitehill, Duke Palerno, Susan Raleigh, Walter Faulk, Lloyd Chapman, Mary Ann Mason, John Cline, Rob Sutherland and David Borden.

The following persons spoke to the Council in favor of the "renaissance concept:" (arts and crafts only)

Alvin Golden, Bernie Smith, Maggie Cook, Martin Mayfield, Dick Hodgkins, Mary Lou Chapman, Drew Thompson, Terry Roberts, Bob Gotcheaux, Bob Wright, Norm Bice, Tom Slickemeyer, Lee Starbuck, Marcie Clots and Noyles Rewas.

#### Motion

Councilmember Himmelblau moved to close the public hearing and to uphold the decision of the Arts Commission to limit the 23rd Street market to arts and crafts and to instruct the City Attorney to draw up an ordinance to the effect to formulate the rules that will regulate the market. The motion was seconded by Councilmember Lebermann.

#### Substitute Motion

Councilmember Trevino stated the Council had appointed the Vending Committee to look into the problems of the 23rd Street Market and he felt the Council should uphold their recommendations. Councilmember Trevino made a substitute motion that the Council uphold the recommendations of the Vending Committee. The motion died for lack of a second.

#### 2nd Substitute Motion

Councilmember Linn made a substitute motion that the Council rescind the 1972 Vending Ordinance which prohibits sale of goods on public sidewalks. The motion was amended to designate Guadalupe Street from 24th Street to 21st Street, where the sidewalk is wide.

Discussion was held if this included arts and crafts people and importers; and if the 23rd Street market would be retained. Councilmember Linn stated what she had in mind was to open up Guadalupe and maintain a 23rd Street market and have a designated area, a licensed area for arts and crafts. Councilmember Himmelblau felt this was not an agenda item and inquired if an ordinance could be rescinded without a public hearing. After further discussion, Councilmember Linn withdrew her motion.

### 3rd Substitute Motion

Councilmember Trevino's substitute motion, seconded by Mayor Pro Tem Snell, that the Council uphold the recommendations of the Vending Committee, failed to carry by the following vote:

Ayes: Councilmember Trevino, Mayor Pro Tem Snell  
Noes: Mayor Friedman, Councilmembers Himmelblau, Hofmann, Lebermann, Linn

### Roll Call on Original Motion

Roll call on Councilmember Himmelblau's motion, Councilmember Lebermann's second, showed the following vote:

Ayes: Councilmember Linn, Mayor Friedman, Councilmembers Himmelblau, Hofmann, Lebermann  
Noes: Councilmember Trevino, Mayor Pro Tem Snell

The Mayor announced that the motion had carried.

### TELEPHONE FRANCHISE ORDINANCE

The Council had before it the Telephone Franchise Ordinance for its third reading.

MR. GRAY BRYANT, District Manager, Austin Exchange, Southwestern Bell Telephone Company, stated that regarding the franchise terms, the Company's position was as follows:

The Gross Receipts ordinance (Franchise Ordinance) as revised on March 18, 1975, to delete paragraphs ~~ee and ff~~, ~~was~~ acceptable to the Company, but had to be tied to the final passage of a Rate ordinance.

City Attorney Kubicek then quoted the following statement by Mr. Bryant from the February 5, 1976, Minutes of the City Council:

"MR. BRYANT: Yes, as I have indicated to the City staff, we would be receptive to passing on, to giving the 4 per cent gross receipts, but that we would have to recover it from the Rate ordinance, which you would do, and that it would have to be collected in advance of the payment, and we are basically in agreement with this provision and that would be the main thing. There are several other things. I have just gotten a copy of it this morning. As I reviewed it, I see some things in there that

we need to discuss. And, of course, there is a 60 day provision in that ordinance that says that the Company may review it, accept it in writing back to the Council if that is what we want to do. But, as it relates to the actual increase to 4 per cent, I have previously agreed to do this."

City Attorney Kubicek pointed out that the statement contained no qualification whatsoever as was now being offered. He then asked Mr. Bryant what was the reason for the Company's change in position.

Mr. Bryant stated there had really not been a change in position. Former City Attorney Don Butler had maintained that there was an agreement whereby the Company would increase the gross receipts payment without any restrictions. Mr. Bryant stated that all along he had said that the gross receipts increase had to be tied to a rate increase.

Mayor Friedman asked Mr. Bryant if the Council approved the franchise with the increase from two to four per cent, would not the money be collected by the increased rates which had been passed through two readings, plus the \$1.9 million rate increase?

Mr. Bryant stated that the Company would not be losing any money, but would be passing it through. What the Company wanted was the final passage of a rate ordinance, rather than continuing to operate on an interim ordinance, along with passage of the gross receipts (franchise) ordinance. Mr. Bryant stated that the Company's position would be jeopardized if it sought further administrative relief while accepting any increase offered by the Council on an interim basis.

JON DEE LAWRENCE, General Attorney-Texas for Southwestern Bell, stated that he was authorized to make the following commitments on behalf of the Company in return for a final rate ordinance which guaranteed the \$1.9 million rate increase:

1. The Company would accept the increase to 4 per cent of gross receipts in the franchise ordinance.
2. The Company would not introduce any 1975 operating results in any subsequent judicial proceedings.

In response to City Attorney Kubicek, Mr. Lawrence stated that he was fully authorized by the Company to abide by the 1974 test year limitations in any subsequent judicial proceedings.

Mayor Friedman asked Mr. Lawrence if the Company, in addition to waiving the use of 1975 figures in any court case, was also willing to base the case on the testimony, figures and documentation previously submitted to the Council. Mr. Lawrence stated that the same facts would be used, but that there could be a difference in interpretation of those facts.

Mayor Friedman asked Mr. Lawrence why the situation was now so different and critical to the Company from the way it was several weeks ago when it was proposed to go directly to court. Mr. Lawrence stated that based upon stipulations proposed in a subsequent paper sent to Mr. Lawrence by City Attorney Butler, the case would be one of substantial evidence, whereby the burden of proof would be heavier on the Company if it appealed.

In response to Mayor Friedman's question, Mr. Lawrence stated that he was not proposing to restrict the City to any issue in the rate case, such as the Western Electric adjustment or productivity. The City could pursue such matters in any subsequent court proceeding.

DON BUTLER stated that the proposed stipulations submitted to the Company did not call for an appeal based on the substantial evidence rule. It merely called for submitting to the court the case that had been presented to the Council. The City would be willing to provide that the case not be based on the substantial evidence rule.

Mr. Butler stated that under the resolution on today's Agenda regarding tariff adjustments, a provision could be made that any collection would not prejudice any right which the Company might have. Regarding the rate ordinance, Mr. Butler stated that it was probably the most favorable one the Company had received from the Austin City Council in the last three cases. The present ordinance did not require that the Company accept the ordinance. Mr. Butler felt that it was improper on the Company's part to lever the Council into a position of taking some action by holding out the added 2 per cent on gross receipts. Mr. Butler stated that he and City Attorney Kubicek joined in recommending adoption of the franchise ordinance.

At that point City Attorney Kubicek submitted to the City Clerk Exhibit "A", entitled Austin Metropolitan Exchange Detail Summary of Proposed Miscellaneous Rate Schedules. He then summarized certain service and equipment charges as adjusted and modified in Exhibit "A" as follows:

1. Centrex - Increased from 9.7% to 11%.
2. Package PBX - Increased from 10.3% to 11.2%.
3. Feature PBX - Increased from 9.2% to 10.3%.
4. All other categories were essentially the same, except that multi-line charges were not recommended.

The annual revenue increase was reduced from \$1,807,600 to \$1,617,542. Mr. Kubicek then asked Mr. Butler to provide an additional summary. Mr. Butler made the following comments:

1. The rate ordinance which had been passed covered only certain basic items. It provided that the Company would then submit its tariffs for approval by the Council, which was the item presently under consideration. Last Wednesday the Company submitted certain tariffs, which the Council approved the following Thursday, with the following exceptions: Touch Tone, private line and multi-line charges. The first two charges had since been resolved since they were in line with other larger cities. There was still concern over multi-line charges because they appeared to increase business line charges through an indirect means, and would probably burden small and medium size businesses.

2. In calculating installation charges, the Company had used an erroneous method. The Company had not used actual 1974 installations but had used the month of April only. There was minimal installation activity during April, so the effect was a calculation error of between \$50,000 and \$100,000.
3. Recommended Council approval of Exhibit "A" as modified, deny the multi-line charges and due to the Company's calculation error in installation charges, that it be directed to submit its proposed further rate increases if necessary to make up any revenue deficiencies.
4. Notwithstanding the Company's errors, all rates heretofore should go into effect immediately without prejudice to any position of either the Company or the City because of the Company's collection of same. If the Council so desired, it could provide further that the Company not be subject to any refund on Western Electric or other matters which the City could examine.

Mayor Friedman stated that what Mr. Butler was suggesting enabled the telephone company to start collecting the money which it said it needed. Mr. Butler agreed and stated that the Company would be able to collect the amount recommended by the consultants as well as the amount necessary to increase the gross receipts charges to that which was presently in effect in Dallas. The Company could do so immediately and could have been collecting some of the items for some time.

Mr. Gray Bryant stated that business would be getting an undue burden but not because of any correction made this afternoon. The new rates would increase residence rates by about 2% and business rates by about 18%. In many cases, the new business rates in Austin would exceed comparable rates in Dallas and Houston. On the basic residence and business rates Austin had the lowest rates of any comparable size city in Texas.

Mayor Friedman questioned the audacity of the Company to come before the Council in such hypocritical terms to plead the case for the poor business consumer when for years the Company had no sympathy and insisted upon gouging the residential user by placing all increases upon those users. He felt that if the Company were truly a public utility and was concerned about the public and the consumer, then there should be a little less hypocrisy, a little more action and a little less talk.

Don Butler pointed out that the increase to the residential consumer in this case merely equalized what had happened over the past few years, starting with 1972 base figures and applying percentagewise all the increases which had taken place since that time. The Company might have favorable business equipment rates in other cities. However, the reason was that the Company cross-subsidized business interests and loaded the rates to residential users to keep competing equipment companies from being able to compete fairly. In this instance, the residential consumer was not getting a break.

Mr. Bryant invited the Council to examine residential and business rates in comparable Texas cities. He stated that Austin had the lowest rates of those comparable cities.

Mayor Friedman brought up the following ordinance for its third reading:

AN ORDINANCE GRANTING TO THE SOUTHWESTERN BELL TELEPHONE COMPANY, A CORPORATION, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE A TELEPHONE BUSINESS AND SYSTEM IN THE CITY OF AUSTIN, AND PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UPON AND UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED.

The ordinance was read the third time, and Councilmember Hofmann moved that it be finally passed. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

- Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Trevino, Mayor Friedman
- Noes: None

The Mayor announced that the ordinance had been finally passed.

APPROVAL AND ADJUSTMENT OF ADDITIONAL TARIFFS SUBMITTED BY SOUTHWESTERN BELL

Councilmember Hofmann moved that the Council adopt a resolution accepting the following recommendations of the City Attorney:

1. Approve summary of tariffs contained in Exhibit "A", as modified to increase certain equipment charges on a more uniform basis and to deny, at this time, the multi-line charges (which appear to impose a disproportionate burden on small and medium sized businesses).
2. Because of Company's error in calculating the effect of the increase in installation charges, the Company is directed to provide proper computations and submit its proposed rate increases to meet any remaining revenue deficiency if any remains after taking into account the correct figures.
3. Notwithstanding the Company's errors, all rates heretofore approved and approved herein should go into effect immediately without prejudice to any position of either the Company or the City because of the Company's collection of same.

The motion, seconded by Councilmember Trevino, carried by the following vote:

- Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell
- Noes: None

FINANCIAL DISCLOSURE AND ETHICS ORDINANCE

Mayor Friedman stated that the City Attorney had presented in the agenda packet the proposed ordinance as instructed by the Council last week, and at this time asked for speakers from the audience concerning the proposed ordinance.

MR. PHILIP CREER, Chairman of the Historic Landmark Commission, commented that the policy statement of the Code of Ethics must be applauded by all sincere citizens of Austin, and the full intent of the ordinance must also be approved. The commission uniformly agreed that such disclosure on the part of certain elected officials and employees in positions of authority may well be right and proper. Mr. Creer requested that the Historic Landmark Commission be removed from the list of those required to make financial disclosure.

MR. BILL NALLE, a member of the Navigation Board, felt that the elimination of one board or commission was a little out of order, and that it is ridiculous to ask people who volunteer their services to disclose this type of information.

MR. DICK HODGKINS, commented that he would personally resent a situation where the City requires one to divulge information that his own banker would not require of him.

MR. LEO DANZE addressed his comments to Article 6 of the financial disclosure and felt this would have a detrimental effect on those who are getting older. Mr. Danze stated that the Article as written would be very prejudicial toward folks who are getting on in age.

MR. WOODROW SLEDGE, felt that the ordinance goes a little too far and would like to see it limited to elected officials and those officials appointed directly by the Council. Mr. Sledge requested that under Article 6, subsection C-1, that the ending statement of "provided such information is not privileged by law" be removed from the ordinance. Mayor Friedman stated that this could be deleted. Mr. Sledge concluded by stating that if the ordinance passed, he conceived of our boards consisting of non-entities, zealots, and demagogic young attorneys eager to make their name, and these would be the only ones.

MRS. KATHERINE CHARNES, a member of the Board of Adjustments, appeared in opposition to the financial disclosure ordinance and felt it invaded a person's privacy.

MR. MASON DULA, representing Northwest Austin Civic Association, noted that the ordinance as it is now written constitutes a gross invasion of privacy. He requested that the section pertaining to amounts be stricken from the ordinance.

MR. ALLEN SEARIGHT, a member of the Navigation Board, felt that there should be an addition to Article 5 that would state where a member of a board or commission, once the application from a citizen has been brought up before this board or commission and it has been voted on, that members of those boards and commissions cannot come before the Council and talk against the majority vote that was passed in their commission.

Councilmember Linn indicated that she would never want to get into a position where the Council would prohibit any citizen from coming before it as a private citizen. Councilmember Trevino agreed with Councilmember Linn. In referring to the financial disclosure, Mr. Searight felt that this was too detailed.

MS. JANA ZUMBRUN, a member of the Human Relations Commission, appeared in support of the ordinance.

MR. CRAIG DAVIS, representing Austin and Travis County Common Cause, addressed himself to several points concerning the ordinance and began by requesting that the interest rate categories be narrowed and use categories 0-8%, 8-12%, and 12 and above. His second point referred to the section of the ordinance that omits children, includes spouses. He stated that the Texas Statute and the statutes of most other states include children as well as spouses. He felt if children are omitted, this would create a loophole whereby parents can hide assets through some sort of custodianship gift trust. Mr. Davis also wanted to retain categories on amounts. As regards boards and commissions, Mr. Davis stated that the reason they should be covered is that they all exercise Council-like powers and are arms of City government.

After his discussion, Councilmember Himmelblau pointed out that the state statute...the financial disclosures filed in the Secretary of State's office... there is no ethics review board, so it is not a witch hunt, or it is not open to the public unless the public so desires to go over there and pay for a copy. Mr. Davis concluded by stating that the Common Cause still supported the idea of an Ethics Board and felt to be a useful entity.

MR. ROBERT YOUNG commented that the idea of financial disclosure is not a burden to people and that all the major elected state officials in Texas and all the major appointed state officials in Texas fill out a similar document. He felt there is an obligation by a public official who accepts the responsibility to effect and directly control the lives of other citizens, to disclose to the public all information necessary so that the public can understand on what basis those decisions are effected. Certain boards and commissions listed in the ordinance all exercise sovereign power. The Parks and Recreation and the Citizens Board on Environmental Resources and probably the Retirement Board are questionable as to whether they should be included. He encouraged the Council to pass the ordinance on first, second, and third reading.

MR. STEVE PRICE, Chairman of the Board of Adjustments, commented that if the moral fiber of an elected official, a department head, or a member of a board or commission, degenerates to the point where he would consider taking payola or maybe take it, he could have a thousand financial statements on file and it would not stop him one minutes.

MR. DON WALDEN, a member of the Citizen's Environmental Board, noted that he was speaking for himself as a member of that board, and also Frank and Evelyn Booth, also members of the board. Essentially, Mr. and Mrs. Booth felt that the financial disclosure provision was too complicated and specific to serve any reasonable purpose; and if the ordinance was enacted as it is now written, that a provision directing the City Attorney to render this opinion upon request by an effected person, would be desirable to avoid problems of legal interpretation with compliance of specific disclosure provisions. Mayor Friedman stated that this provision is already included in the ordinance.

Mr. Walden then commented that he did not feel really comfortable with the detailed disclosure provisions, and that the board he served on did not have any sovereign power at all. Councilmember Himmelblau pointed out that a lot of the decisions that the Planning Commission and the Council make are based on the decisions made by the Environmental Board, so where it might not be a sovereign board, the board has a tremendous amount of power.

Mr. Walden felt that all members of boards should be required to disclose any source of income that they have which may be in conflict with any issue that they are studying in preparing to make their decision or a recommendation or give advice on.

MR. JIM PFLUGER, Chairman of the Board of Directors of Brackenridge Hospital, appeared in opposition to the ordinance, particularly in terms of the financial disclosure portion. The board is not against any code of ethics.

MR. DONALD BELL appeared in support of the ordinance.

MR. ROYAL MASSET, representing the Austin Citizens' League, appeared in opposition to the ordinance; however, he suggested that in Section 2-33(a)4 an additional statement of "which might reasonably be construed to violate any code of ethics governing the profession in which the City official or employee is engaged." After discussion of the wording, Mayor Friedman clarified the wording by stating that "no City official or City employee shall engage in any business or professional activity which might reasonably be in violation of any person's professional code of ethics."

MRS. INA RAE SMITH, a member of the Historic Landmark Commission, was not in agreement with a statement made by Mr. Craig Davis when he compared the state statute for the Historic Landmark Commission, and felt it was a bad comparison.

MAXINE FRIEDMAN, First Vice-Chairperson of the Human Relations Commission, appeared and commented that she was speaking for herself. She noted that she would like to see the number of boards cut down, and possibly limit the ordinance to sovereign boards or perhaps just to the Board of Equalization, Board of Adjustment and the Planning Commission. She also felt there should be some modification in the information required.

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING THE CITY CODE; ESTABLISHING A CODE OF ETHICS FOR THE CITY OF AUSTIN; PROVIDING STANDARDS OF CONDUCT; REQUIRING THE FILING OF FINANCIAL ACTIVITY STATEMENTS BY CERTAIN OFFICIALS; ESTABLISHING AN ETHICS REVIEW COMMISSION; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

Motion - Died for lack of second

Councilmember Hofmann moved that the Council pass the Financial Disclosure and Ethics Ordinance through first reading only. Died for lack of a second.

Motion

Councilmember Linn moved that the Financial Disclosure and Ethics Ordinance be passed through all three readings and that the first filing be in 90 days of passage of the ordinance. The motion was seconded by Mayor Friedman.

Substitute Motion

Councilmember Trevino moved that the Financial Disclosure and Ethics Ordinance be passed through first reading only. The motion was seconded by Councilmember Hofmann.

The following Friendly Amendments were made:

MAYOR FRIEDMAN - amendments that were accepted by Councilmembers Linn and Trevino.

1. Section 2-32(a) that member be changed to person.
2. Section 2-32(e) be deleted entirely as it is picked up very clearly in Section 2-33.
3. Section 2-34(a) that the Retirement Board, Airport Board and the Parks and Recreation Board be deleted from the list.
4. Section 2-35(a) to read "on the first day of March of each year, commencing with 1977" which would be the reporting period to set up the annual reporting due on March 1.
5. Section 2-35(b) would be amended to add subsections (1) and (2) to read "after passage of this ordinance and until January 1, 1977, City officials shall file on the 1st day of September and December of 1976, with the City Clerk the supplemental report to their statement of financial activity, etc."
6. Section 2-35(g) shall read "all city officials covered by Section 2-34(a) on the date of passage of this ordinance must file an initial statement of financial activity within ninety (90) days of the date of passage of this ordinance."
7. Section 2-35(h) added for clarification "after passage of the ordinance, any non-elective city official covered by 2-34 (a) who are appointed or hired, must file an initial statement within 90 days of being hired or appointed unless they assume their duties within 60 days of March 1, in which case they may delay their report until March 1."

Amendment not accepted by Councilmember Linn, accepted by Councilmember Trevino:

1. Section 2-35(c)(1) striking the last sentence as requested by Mr. Woodrow Sledge that reads "provided such information is not privileged by law."

COUNCILMEMBER LEBERMANN - amendments that were accepted by Councilmember Linn and Councilmember Trevino.

- 1. Section 2-35(c)(12) deleting the phrase "including the amount of liability" from (12).

Amendment not accepted by Councilmembers Linn and Trevino.

- 1. Section 2-34(a) to delete the boards and commission as listed. (All 17 as listed)

COUNCILMEMBER HIMMELBLAU - amendments that were accepted by Councilmembers Linn and Trevino.

- 1. Section 2-34(c) major changes to be increased from \$3,500 to \$5,000.

Amendments not accepted by Councilmembers Linn and Trevino.

- 1. Councilmember Himmelblau made the following statement as an amendment:

"That the members of boards and commissions serve at the pleasure of the Council. They put in many hours of hard work and dedicated effort for the benefit of the entire City and receive no compensation for their efforts. I believe that the presently proposed ethics and financial disclosure ordinance as it relates to boards and commissions is unnecessarily harsh and extremely punitive, particularly to one segment of the community. Therefore, I wish to offer an amendment that would require the members of boards and commissions to report only sources of net income, and property in Austin and in the Extraterritorial Jurisdiction."

- 2. Section 2-34(b) to read "person means a designated city official and said official spouse and any and every non-related person except for dependent children occupying the residence, such city official's place of residence, for any portion of preceding reporting period."
- 3. The term of "net income" to be used in cases where "gross income" is discussed.

Councilmember Himmelblau made the following suggestion concerning the addition of a new section of obligation of the City:

"Obligations of the City of Austin. The provisions of this ordinance in part are designed to furnish full disclosure of financial interest to the public. Compliance is necessarily tedious and may frequently be overlooked. It shall be the duty of the Clerk of the City of Austin to furnish all City officials and non-incumbent candidates for the City offices; adequate explanations of the provisions of this ordinance; adequate information as to procedure for the completion of such forms and advance notice in writing so that each effected person shall have sufficient time in order to comply with the provisions of this ordinance. Likewise, the City Clerk shall have at all times, shall at all times maintain sufficient staff to assist all persons

effected by the provisions of this ordinance in complying with the provisions of this ordinance. Each City official shall be entitled to use official employment time to complete all forms necessary to comply with the provisions of this ordinance, with reduction in compensation. The Clerk of the City of Austin shall design and prescribe all forms which are required to be filled in connection with the reporting requirements of this ordinance. The City Clerk is also hereby authorized and empowered to grant requests for extension of time for filing of any report...that is already shot down."

Mayor Friedman felt that this would build in a position where staff would have to be increased to handle the ordinance and this was not necessary. Councilmember Himmelblau felt that there would have to be an increase anyway.

Councilmember Hofmann expressed concern with Part 6 of the ordinance and felt that the City Attorney would be burdened with the job of being at the disposal of all the people who are doing the filing.

City Attorney Kubicek commented that this section does put a burden on his office. It provides opinions, but that is a burden that occurs on any ordinance. This is his duty to interpret the code and ordinances and he did not take any difference to it.

Roll Call on Substitute Motion

Roll call on Councilmember Trevino's substitute motion, Councilmember Hofmann's second, to pass the Financial Disclosure and Ethics Ordinance through the first reading only with the friendly amendments as accepted, showed the following vote:

- Ayes: Councilmembers Trevino, Hofmann, Lebermann, Mayor Pro Tem Snell
- Noes: Mayor Friedman, Councilmembers Linn, Himmelblau

The Mayor announced that the ordinance had been passed through the first reading only.

Mayor Pro Tem Snell pointed out that although he voted "yes" today, this should not be taken as an indication that he would vote that way the second time.

Councilmember Himmelblau commented that she was in agreement with just the first reading, but until we can differentiate between boards and commissions and elected officials, she would vote "no."

Councilmember Lebermann stated that his vote of "yes" was with specific anticipation of offering additional amendments.

Mayor Friedman pointed out that the ordinance would be on the agenda next week for any person interested in speaking on ~~other~~ viewpoints concerning the ordinance.

## AIRPORT MASTER PLAN REPORT

DICK HODGKINS, Chairperson, Airport Master Plan Study Committee, reviewed his letter to the Council dated March 12, 1976, regarding Consultant Site Selection Recommendation. He commented additionally as follows:

1. If when the study was completed and all factors were go, and if the Council at that time planned to implement the plan as presented, it would require 7 to 10 years for completion.
2. There should be no embarrassment to any City official, to the Mayor and Council or the former Council who were involved in the recent improvements to the Airport. If any of the commercial air carriers moved their operations to a separate location, many of the improvements could be used at the new location. By then, all of the costs would have been amortized.

Mr. Hodgkins then recognized the following members of the Committee which were appointed on November 14, 1974; Tom Backus, June Barnes, Peter Coltman, Ralph Janes, Jr., Jay Miller, Bill Nolen, Jr., Frank Phillips and Charles Zlatkovich. Col. George R. Hall represented Bergstrom Air Force Base.

On May 23, 1975, the Committee interviewed consultants and recommended that R. Dixon Speas of Los Angeles be retained to prepare the Master Plan Study. On June 5, 1975, the Council approved a contract with Speas to complete the project for a total contract price of \$125,000.

The study was to be done in five phases:

1. Determine airport requirements through 1995.
2. Define and evaluate alternatives (site selection).
3. Develop airport plans.
4. Develop financial plans.
5. Develop appropriate reports and coordinate public hearings.

The first two phases of the study have been completed by the consultant and a Council decision was now necessary before the consultant could proceed with phases 3, 4 and 5. During the past eight months the Committee had held numerous public meetings and work sessions with the consultant and solicited input from interested parties. The Committee recommended the following:

1. Discussions be initiated with the Department of Defense and other appropriate officials at the national level to determine the acceptability of joint use of Bergstrom Air Force Base.
2. If approval is given, necessary planning be initiated to relocate air carrier operations to Bergstrom Air Force Base and that general aviation operations be continued at Mueller Airport.

ROGER HARDACRE, Director of Field Services for Braniff in Austin, read a letter written by Mr. Sam Ashmore, Staff Vice-President of Properties and Fuel Management, Texas International, and Chairman of the Austin Airlines Airport Affairs Committee. Regarding the site selection study, the Committee took the following position:

The site selection study offered one thoughtful, well-researched alternative for airport development through relocation. However, the airlines did not view the study as completing the planning process. The study must be viewed and treated as a flexible document in very general terms which offered one proposal for continuing development based upon the best present thinking. The study needed to be reexamined periodically as conditions in the industry changed to answer the following questions:

1. Will relocation of the entire commercial airline operation increase efficiency in operation and provide the citizens of Austin and the traveling public with an efficient facility of a reasonable cost to the community?
2. Is the relocation still the best solution in view of intervening changes in technology or methods of operation?
3. Can the airline industry realistically support from a financial point of view relocation within a framework of realistic rates and charges?

The industry's position regarding the study was one of conditional support. However, the industry reaffirmed its willingness and desire to participate actively in the continuing planning process.

Councilmember Himmelblau stated that she had a letter from the Department of the Air Force dated 1970 which intimated that the military was not interested in entering into a joint use agreement with the City. In response to Councilmember Himmelblau's question, Mr. Hodgkins referred to page 4 of his March 12, 1976, letter wherein the FAA in a report dated October 2, 1972, identified Bergstrom as a preferred alternative to other nearby site developments after consultation with the Department of Defense. On November 17, 1975, the FAA reconfirmed that Bergstrom offered the best solution for Austin's long-range commercial airport needs.

Mr. Hodgkins then introduced Mr. Ray Cushey, lead engineer and project manager with R. Dixon Speas on the airport project. Using a series of slides, Mr. Cushey reviewed for the Council the first two phases of the study which his firm had conducted. In response to Councilmember Himmelblau's question, Mr. Cushey stated that general aviation aircraft were not the problem at Mueller. The air carriers created the noise problems at Mueller, demanded a 9,000 foot runway and demanded other areas surrounding the Airport which the City did not have. Mr. Hodgkins pointed out that many of the problems being confronted were not within the discretionary power of the City, but were dictated by the federal government. The Airport would reach capacity in about seven years.

Mayor Friedman stated that it would be necessary to find out what more the consultant needed to do, cost figures, and to set a series of public hearings before making a commitment. Mr. Hodgkins stated that unless a favorable comment was received from the Department of Defense, that all of the considerations

were moot. He asked that the Council grant the ability to contact some national leaders and the Department of Defense to see about concurrence and on what basis.

Mayor Friedman asked the City Manager and Mr. Bayless to come back in through the administration and give the Council a time schedule and then get back with the Committee and the consultant. Mayor Friedman felt that the Committee had made an excellent recommendation and that the concept should be followed through on.

#### SITE AREAS FOR FARMER'S MARKET

Mayor Friedman commented that this is a request for a temporary use of land by the County to develop a Farmer's Market at their expense to last for approximately 3 years.

#### Motion

Mayor Pro Tem Snell moved that the Council select the site at Pleasant Valley Road and Lakeshore Boulevard for the Farmer's Market; and that an emergency meeting be held, if necessary, to expedite the zoning request; and an appropriate contract be created by the City Manager. The motion was seconded by Councilmember Trevino.

In response to Councilmember Himmelblau's question as to the amount of buffer between the market parking and the apartment unit, Mr. Joe Morahan, Director of Property Management, indicated it was approximately 50 feet.

Mr. Dick Lillie, Director of Planning, felt that the "C" Commercial zoning that would be required for the Farmer's Market would be a violation to the current zoning used in the area which is residential use. Mayor Friedman pointed out that the whole proposal was to make this market only on a temporary condition and any zoning change would have to be contingent on a rollback as soon as the County stops use of the land in 3 years.

Mayor Friedman suggested that the administration and Mr. Lillie be instructed to immediately proceed in getting the zoning to the committee and to the commission; and if necessary, requested that the commission meet in a special meeting. Mr. Lillie noted that it would be June before it could be brought back to the Council for approval; however, he would develop a schedule to expedite this to have it back to the Council as soon as possible.

#### Friendly Amendment

Councilmember Trevino offered a friendly amendment to the motion, whereby the Commissioners Court is urged to work very closely with the importers in finding them a place in the market. Mayor Pro Tem Snell accepted the amendment. Roll call on Mayor Pro Tem Snell's motion as amended showed the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann, Linn, Trevino  
Noes: None

Mayor Friedman suggested that County Commissioner Johnny Voudouris work with Ms. Anne Schwartz on the project.

## CLARKSVILLE PLANNING AND IMPROVEMENT PROGRAM

Mr. Dick Lillie, Planning Director, stated that the City's involvement in the Clarksville area was to develop a neighborhood plan, for preserving the area and upgrading services; and to develop responses by departments of the City to requests made by members of the community group to the City Council. Both efforts were being done simultaneously. In response to Mayor Friedman's question, Mr. Lillie stated that he and Mr. Knickerbocker had gone over the report this evening with the neighborhood representatives.

In response to Councilmember Linn's question, Mr. Knickerbocker stated that there was a problem with moving the historic structure in the area due to its condition. JOHN HENNEBERGER, a member of the Clarksville Neighborhood Council, stated that Mr. Bradford had been on the site and had indicated that the structure could be moved.

MR. JOE TERNUS, Urban Transportation Department, stated that the intersection of West 12th Street and West Lynn had been studied by his department; Based on standard traffic engineering surveys and study formats, he did not recommend placing a traffic control signal at the intersection. He felt that some minor changes of signs and markings and modifications of the intersection design in conjunction with the overall plan would solve existing problems at the intersection. In response to Mayor Friedman's question regarding the time element, Mr. Ternus recommended that everything be done at the same time. However, the work could be done separately and in a short period of time. In response to City Manager Davidson's question, Mr. Ternus stated that he felt the recommended alterations at the intersection would help the safety factor at the intersection. Mr. Davidson then stated that he felt the work should be expedited.

ELLIOTT NASHTATT, a resident of the Clarksville area, reviewed the proposed alterations at the intersection. Using slides, he pointed out how his recommendations differed from the Urban Transportation Department's recommendations. He requested that the traffic light be installed at the intersection of West 12th Street and West Lynn. Mr. Henneberger reviewed some of the Urban Transportation Department's recommendations. He then pointed out what the Neighborhood Council felt were flaws in the recommendations. He felt that the traffic and pedestrian loads justified the traffic light.

Mayor Friedman inquired about the possibility of installing a 3-way stop sign at the intersection along with others. Coupled with street improvements, this might be a temporary answer to the problem.

Mr. Ternus stated that northbound on West Lynn was the major traffic flow. Major traffic flow on West 12th Street was westbound. A traffic signal at the intersection would tend to favor east-west traffic on 12th Street east of West Lynn and would not materially improve traffic coming out of the Clarksville area. There would be a tendency to increase traffic on West 12th Street. In response to Councilmember Himmelblau's question, Mr. Ternus stated that the vehicular and pedestrian traffic were such that he could not recommend a traffic signal. Mr. Ternus pointed out that the east-west pedestrian traffic was only one-third of the total pedestrian traffic. In response to Councilmember Himmelblau's question, Mr. Ternus felt that the suggested 3-way stop would worsen the situation.

Motion

Mayor Pro Tem Snell moved that the Council approve the installation of a signal light at West 12th and West Lynn. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Lebermann, Linn, Trevino, Mayor Friedman  
Noes: None

Mayor Friedman stated that in fairness to the Urban Transportation Department, the plans for improvement of the intersection should be prepared in case anything additional was necessary or if it might at some point be desirable to move the traffic light and place it somewhere else in the neighborhood.

MAYOR'S COMMISSION ON ELECTRIC RATES REPORT ON PARTICIPATION  
IN THE SOUTH TEXAS NUCLEAR PROJECT

Ms. Pam Giblin, Chairperson of the Mayor's Commission on Electric Rates, stated that during the past 8 months, the Commission has been reviewing data related to lowering Austin's bills on electricity. On March 16, 1976, the Commission unanimously voted to recommend to the City Council that Austin withdraw from participation in the South Texas Nuclear Plant Project. She stressed the facts relating to this recommendation and noted that the majority of the Commission voted in favor of the Nuclear Bond issue. The thing that has caused the Commission to change their point of view is due to economics since the costs have risen so high. Another concern of the Commission was on the availability of fuel for this project, and they did not want to be in the same position that the City is now in with LaVaca Gas. The Commission endorsed in principle the holding of a referendum on the question of Austin's continued participation in the South Texas Nuclear Project.

Mayor Friedman noted that there is a work session next week on this subject and he invited any members of the Commission to attend the session. Ms. Giblin commented that this report was only a part of the final one to be given in about 4 weeks.

ACQUISITION OF CERTAIN LAND

Councilmember Himmelblau moved that the Council adopt a resolution authorizing the acquisition of certain land for the extension of East 26th Street from Dancy Street to Manor Road as follows:

2701 Dancy Street (T. L. Snowden et ux)

The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman  
Noes: Mayor Pro Tem Snell

Councilmember Himmelblau moved that the Council adopt a resolution authorizing the acquisition of 2703 Dancy Street (James H. Sellstrom et al) for the extension of East 26th Street from Dancy Street to Manor Road. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman  
Noes: Mayor Pro Tem Snell

Councilmember Himmelblau moved that the Council adopt a resolution authorizing the acquisition of 2700 Drury Lane (Willie Mae McPhaul) for the extension of East 26th Street from Dancy Street to Manor Road. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman  
Noes: Mayor Pro Tem Snell

AFFILIATION AGREEMENT BETWEEN THE UNIVERSITY OF TEXAS  
AND AUSTIN-TRAVIS COUNTY HEALTH DEPARTMENT

Councilmember Lebermann moved that the Council adopt a resolution authorizing an affiliation agreement between the Division of Nutrition and Foods of the Department of Home Economics of The University of Texas at Austin and the Austin-Travis County Health Department to provide clinical experiences for students and additional nutritional services for the Health Department. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor  
Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None

APPOINTMENT OF COUNSEL

Councilmember Hofmann moved that the Council adopt a resolution authorizing the appointment of Don Butler as counsel to assist in utility and related rate matters. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Lebermann, Trevino, Mayor Friedman, Mayor  
Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Abstain: Councilmember Linn

Mayor Friedman pointed out that Mr. Butler and his firm would not handle cases involving municipal affairs after this date, with the exception of the pending Safeway case that is on the agenda next week.

ESTABLISHING SERVICES CHARGE FOR STANDBY EMS SERVICE

Mayor Friedman commented that this is basically establishing a \$25.00 grand total standby charge.

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ESTABLISHING FEES FOR STANDBY EMERGENCY MEDICAL SERVICE SERVICES; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Trevino moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Lebermann, carried by the following vote:

- Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann
- Noes: None

The Mayor announced that the ordinance had been finally passed.

(One ambulance and its crew shall be \$15.00 per hour; in the event a second EMS unit is needed there will be a charge of \$15.00 per hour and in addition a flat fee vehicle use charge of \$10.00 shall be assessed.)

ORDINANCE AMENDING CITY CODE ON SPEED ZONES

Mayor Friedman brought up the following ordinance for its third reading:

AN ORDINANCE AMENDING SECTION 21-42 OF THE AUSTIN CITY CODE OF 1967, MAKING CERTAIN ADDITIONS AND DELETIONS TO SUBSECTIONS (a), (c) AND (e) THEREOF IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS" (VERNON'S ANN. CIV. ST., ART. 6701d); AND REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE. (MoPac Boulevard)

The ordinance was read the third time, and Councilmember Lebermann moved that it be finally passed. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

- Ayes: Councilmembers ~~Trevino~~, Himmelblau, Hofmann, Lebermann
- Noes: Mayor Friedman, Mayor Prp Tem Snell, Councilmember Linn

The Mayor announced that the ordinance had been finally passed.

ZONING ORDINANCES

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

A 466.25 ACRE TRACT OF LAND, LOCALLY KNOWN AS 12127-12553 U. S. HIGHWAY 183, AND ALSO BOUNDED BY McNEIL ROAD, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "D" INDUSTRIAL, FIRST HEIGHT AND AREA DISTRICT, SAVE AND EXCEPT A STRIP OF LAND FIFTY (50) FEET IN WIDTH, WHICH IS HEREBY REZONED FROM INTERM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT, LYING ADJACENT TO ANGUS VALLEY AND SUMMIT OAKS SUBDIVISIONS LOCATED ALONG THE SOUTHERN AND EASTERN BOUNDARIES OF SAID 466.25 ACRE TRACT OF LAND; ALL OF SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY. (Texas Instruments Industrial District, C14-75-128)

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Lebermann, Linn, Trevino, Mayor Friedman  
Noes: None

The Mayor announced that the ordinance had been finally passed.

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND CHANGING THE USE MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

A 1.87 ACRE TRACT OF LAND, LOCALLY KNOWN AS 5511-5519 SUNSHINE DRIVE, FROM "B" RESIDENCE DISTRICT TO "O" OFFICE DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY. (George J. Shia, C14-75-123)

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmembers Himmelblau, Lebermann, Linn, Trevino,  
Mayor Friedman  
Noes: Mayor Pro Tem Snell  
Abstain: Councilmember Hofmann

The Mayor announced that the ordinance had been finally passed.

ESTABLISHING CAPITAL INCREMENT FEE FOR WATER  
AND WASTEWATER CONNECTIONS

Mayor Friedman introduced the following ordinance:

AN ORDINANCE ESTABLISHING A CAPITAL INCREMENT CHARGE TO RECOVER A PORTION OF THE COST OF EXPANDING THE WATER AND WASTEWATER SYSTEMS OF THE CITY OF AUSTIN RESULTING FROM THE DEMAND FOR NEW FACILITIES BY NEW CUSTOMERS; CANCELING TAP PERMITS ISSUED, BUT UNUSED MORE THAN TWO YEARS PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE; AMENDING ORDINANCE NO. 760205-B; REPEALING ALL ORDINANCES, RESOLUTIONS, AND ORDERS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY.

Councilmember Linn moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Mayor Friedman, Councilmembers Hofmann, Lebermann, Linn, Trevino

Noes: Mayor Pro Tem Snell, Councilmember Himmelblau

The Mayor announced that the ordinance had been finally passed.

City Manager Davidson pointed out this was agreed to by the building industry and with the minor modifications as outlined in his memo to the Council. Mr. Joe Riddell expressed his disappointment that this was only a \$500 fee compared to a \$2,200 cost. He felt it does not reflect the cost fairly.

Marian Grise, associated with the University of Texas, Division of Nutrition, wanted to express her gratitude for the Council accepting of the affiliation agreement that was approved earlier, and as a nutritionist, she recommended that the Council have some nutritious snacks during long meetings.

ADJOURNMENT

The Council adjourned at 10:24 p.m.

APPROVED

*Jeffrey H. Friedman*  
Mayor

ATTEST:

*Grace Monroe*

City Clerk